

IN THE

# Supreme Court of the United States

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October Term, 1972

No. 71-1637

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CITY OF BURBANK, *et al.*,

*Appellants,*

vs.

LACKHEED AIR TERMINAL, INC., *et al.*,

*Appellees.*

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Appeal From the United States Court of Appeals  
for the Ninth Circuit.

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APPENDIX.  
VOLUME II.  
(Pages 429-520.)

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Jurisdictional Statement Filed June 17, 1972.  
Probable Jurisdiction Noted October 16, 1972.

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Supreme Court of the United States

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CITY OF BURLINGAME, et al.,  
Appellants,

vs.

LOCKHEED AIR TERMINAL, INC., et al.,  
Appellees.

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APPENDIX  
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**FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED**

**PLAINTIFFS AND INTERVENING PLAINTIFFS  
EXHIBIT 4.**

**Order Approving Acquisition.**

**Orders**

**Serial Number 745**

The United States of America, Civil Aeronautics Board, Washington, D.C.

At a session of the Civil Aeronautics Board held at its office in the City of Washington, D.C., on the 22nd day of November, 1940.

In the Matter of the Application of United Air Lines Transport Corporation Lockheed Aircraft Corporation. Under section 408(b) of the Civil Aeronautics Act of 1938 for approval of the acquisition by Lockheed Aircraft Corporation from United Air Lines Transport Corporation of the outstanding capital stock of United Airports Company of California, Ltd. Docket No. 507.

United Air Lines Transport Corporation and Lockheed Aircraft Corporation having filed a joint application under section 408(b) of the Civil Aeronautics Act of 1938, as amended, for approval of the acquisition by Lockheed Aircraft Corporation from United Air Lines Transport Corporation of all of the outstanding capital stock of United Airports Company of California, Ltd., and a public hearing having been held; the Board, upon consideration of the record in the proceeding, having issued its opinion containing its findings of facts, conclusions, and decision, which is attached hereto and made a part hereof; and finding that its action in this matter is necessary pursuant to said opinion;



**IT IS ORDERED,** That said acquisition be, and the same is, approved.

**By the Board:**

/s/ **Thomas G. Early**

**Thomas G. Early**

**Secretary**

**(Seal)**

At a session of the Civil Aeronautics Board held at its office in the City of Washington, D.C., on the 21st day of November, 1946.

In the Matter of the Application of United Air Lines Transport Corporation (Lockheed Aircraft Corporation) under section 408(b) of the Civil Aeronautics Act of 1938 for approval of the acquisition by Lockheed Aircraft Corporation from United Air Lines Transport Corporation of the outstanding capital stock of United Airport Company of California, Inc.

United Air Lines Transport Corporation and Lockheed Aircraft Corporation having filed a joint application under section 408(b) of the Civil Aeronautics Act of 1938 as amended for approval of the acquisition by Lockheed Aircraft Corporation from United Air Lines Transport Corporation of all of the outstanding capital stock of United Airport Company of California, Inc., and a public hearing having been held thereupon upon consideration of the record in the proceeding, having issued its opinion containing its findings of fact, conclusions, and decision, which it announced orally and made a part hereof, and finding that it is within the public interest to approve said acquisition;

**Opinion.**

**Civil Aeronautics Board**

**Lockheed Aircraft Corporation et al.\* Acquisition of United Airports Company. Docket No. 507.**

In the matter of the joint application of United Air Lines Transport Corporation and Lockheed Aircraft Corporation under section 408(b) of the Civil Aeronautics Act of 1938, as amended, for approval of the acquisition by Lockheed Aircraft Corporation from United Air Lines Transport Corporation of the outstanding capital stock of United Airports Company of California, Ltd.

Decided November 22, 1940.

Found that the acquisition by Lockheed Aircraft Corporation of all of the outstanding capital stock of United Airports Company of California, Ltd., from United Air Lines Transport Corporation will not be inconsistent with the public interest. Application for approval granted.

Appearances: *Paul M. Godehn* for United Air Lines Transport Corporation and Lockheed Aircraft Corporation; *Edward M. Weld* for Civil Aeronautics Board.

**BY THE BOARD:**

By a joint application filed under section 408(b) of the Civil Aeronautics Act of 1938, as amended, United Air Lines Transport Corporation, hereinafter called United, and Lockheed Aircraft Corporation, hereinafter referred to as Lockheed, seek approval of the acquisition by Lockheed from United for the sum of \$1,500,000, of all of the outstanding capital stock of United Airports Company of California, Ltd., hereinafter called Airports.

\*Joint application of Lockheed Aircraft Corporation and United Air Lines Transport Corporation.

After due notice to the public and all interested parties in accordance with the provisions of the Act, a public hearing was held before Examiner J. Francis Reilly on November 19, 1940. At the conclusion of the hearing the examiner, with the consent of counsel, announced that he would recommend to the Board the granting of the application, and that no examiner's report would be issued.

United is the holder of certificates of public convenience and necessity authorizing it to engage in air transportation of persons, property, and mail between New York, N.Y., and Newark, N.J., and Oakland, Calif., via intermediate points,<sup>1</sup> known as route No. 1; between Seattle, Wash., and San Diego, Calif., via intermediate points, known as route No. 11; between Salt Lake City, Utah, and Seattle, Wash., and between Salt Lake City, Utah, and Spokane, Wash., via intermediate points, known as route No. 12; and between Denver, Colo., and Cheyenne, Wyo., known as route No. 17. In addition, the applicant holds a certificate authorizing air transportation of persons and property only between Seattle, Wash., and Vancouver, British Columbia, Can.<sup>2</sup>

Lockheed, a California corporation, is a manufacturer of commercial and military airplanes, and is now

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<sup>1</sup>Authorized to transport persons and property only to and from intermediate point, Philadelphia, Pa.

<sup>2</sup>*United Air Lines Transport Corporation, "grandfather" proceeding, C.A.A. Docket No. 16-401(E)-1, decided May 22, 1939, supplemental order August 1, 1939. American Airlines, Inc., et al., New York-Newark Amendment, C.A.A. Docket No. 278, et al., decided November 7, 1939; United Air Lines Transport Corporation, Philadelphia-Camden Amendment, C.A.A. Docket No. 419, decided June 14, 1940; United Air Lines Transport Corporation, Red Bluff Operation, C.A.A. Docket No. 261, et al., decided June 28, 1940.*

engaged in the production of a substantial number of military planes for the United States Government.

Airports is a Delaware corporation with an authorized capital stock of 25,000 shares of the par value of \$100 each, of which 13,840 shares, and no more, are now issued and outstanding, all of such shares being now owned and held by United. Airports is the owner of, and is engaged in the operation of, the Union Air Terminal, hereinafter called Terminal, located at Burbank, California, which airport is presently used by United, American Airlines, Inc., Transcontinental & Western Air, Inc., and Western Air Express Corporation, for their Los Angeles air transport operations. In addition, it leases facilities, office space and land at the Terminal to persons engaged in various aviation activities.

Section 408(a)(2) of the Act makes it unlawful, unless approved by the Board:

"For any air carrier, any person controlling an air carrier, any other common carrier, or any person engaged in any other phase of aeronautics, to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any air carrier;"

The total assets of Airports, amounting to \$1,301,157.68, represent about 7 per cent, or a substantial part, of the total assets of United and its various subsidiary companies of \$17,293,872.03.

Section 408(b) of the Act, under which the application in this case is filed, provides as follows:

"Any person seeking approval of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, shall present an application to

the Board, and thereupon the Board shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing. Unless, after such hearing, the Board finds that the consolidation, merger, purchase, lease, operating contract, or acquisition of control *will not be consistent with the public interest* or that the conditions of this section will not be fulfilled, it shall by order, approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: Provided, That the Board shall not approve any consolidation, merger, purchase, lease, operating contract, or acquisition of control which would result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control \* \* \* \*

Lockheed plans to use the facilities at the Terminal as a flight base in connection with the manufacture, servicing, delivery, and testing of military and commercial airplanes. Its subsidiary, Vega Airplane Company, which will also utilize those facilities, now has under construction a large plant adjacent to this airport for the manufacture of military aircraft. Lockheed desires to immediately build additional hangar facilities at the Terminal to expedite its production of military planes. Unquestionably, consummation of the proposed acquisition would be in the interest of the national defense.

Lockheed will cause Airports to continue to furnish United, American Airlines, Inc., Transcontinental & Western Air, Inc., and Western Air Express Corporation, the air carriers presently using the Terminal, the kind and quality of service and facilities that Airports is now furnishing to said carriers, until the transfer of their transport operations to Los Angeles Municipal Airport, which is now under construction.

After these air carriers have transferred their transport operations to Los Angeles Municipal Airport, Lockheed will cause Airports, for such reasonable charges and upon such reasonable terms and conditions as may be agreed upon, to provide such air terminal service and facilities as these carriers may reasonably require on occasions when transport operations at Los Angeles Municipal Airport become impractical by reason of weather or other compelling conditions.

If, after operations are inaugurated at the Los Angeles Municipal Airport, any one or more of the above-named carriers should desire to also use the Terminal for the operation of regular schedules, then and in that event, Lockheed shall cause Airports to negotiate with such carrier or carriers, and endeavor to agree upon a lease or leases providing for the use of the Terminal and its facilities in connection with the operation of such regular schedules; *provided, however, that Lockheed shall not be required to cause Airports to enter into any such lease or leases which would substantially interfere with existing or contemplated operations at the Terminal by Lockheed or by its subsidiaries or affiliates.* The record clearly indicates that the above-named air carriers are cognizant of, and have no objection to, the proposed acquisition. The record also shows that the consummation of the proposed transac-



tion will cause no interruptions to, interference with, or in any respect have any adverse effect upon, the air-transport services provided the public in the Los Angeles area. On the contrary, the availability of an alternate or provisional airport will be of general benefit to air transport operations in this territory.

The record shows that, in the event of the Board's approval of the proposed acquisition, the parties have agreed that United shall forthwith notify Lockheed, in writing, of such approval, and shall, in such notice, fix a date (hereinafter sometimes called the "closing date") not later than twenty days after the delivery of such notice for the payment by Lockheed of the purchase price of Airports' stock and the delivery of Airports' stock to Lockheed. The record further shows that the parties have agreed that at 11:00 o'clock a.m., Pacific Standard Time, on the closing date, United shall deliver to Lockheed at Union Air Terminal, Burbank, California:

(a) Certificates evidencing the Airports' stock, duly endorsed in blank, for transfer, having affixed thereto federal stock transfer tax stamps covering the applicable federal stock transfer tax; and

(b) Resignations of all members of the Board of Directors of, and of all elective officers of Airports, upon payment to United by Lockheed of the purchase price of Airports' stock, in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000). If said closing date shall be prior to June 1, 1941, said payment shall be made by certified or cashier's check in Chicago Clearing House funds in the sum of Fifty Thousand Dollars (\$50,000) and by a promissory note of Lockheed payable to United on or before June

1941, in the principal sum of One Million Four Hundred Fifty Thousand Dollars (\$1,450,000), collaterally secured by said stock. If, however, said closing date shall be on or subsequent to June 1, 1941, the full purchase price in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000) shall be paid by certified or cashier's checks, payable to the order of United in Chicago Clearing House funds.

United acquired all of the outstanding capital stock of Airports on August 31, 1934. At that time the fixed assets of Airports were carried on the books of that corporation at \$1,179,993.27, which represented the original cost of those assets less a write-down of \$398,350.67, which was made on December 31, 1932. Additions to the property accounts since August 31, 1934, have been made at original cost in the total amount of \$123,486.31, and retirements of property have been removed from property accounts at cost in the total amount of \$53,462.07, resulting in a net increase in the property account of \$70,024.24 since August 31, 1934. The present fixed assets of Airports amount to \$1,250,017.51, and the total assets \$1,301,357.68.

Since its acquisition by United in 1934, Airports has realized the following net profit from its operations:

Sept. 1, 1934 to Dec. 31, 1934 . . .	\$ 2,118.64*
Jan. 1, 1935 to Dec. 31, 1935 . . .	433.58*
Jan. 1, 1936 to Dec. 31, 1936 . . .	1,484.55
Jan. 1, 1937 to Dec. 31, 1937 . . .	10,246.21
Jan. 1, 1938 to Dec. 31, 1938 . . .	8,584.11
Jan. 1, 1939 to Dec. 31, 1939 . . .	12,993.90
Jan. 1, 1940 to Aug. 31, 1940 . . .	<u>32,053.45</u>
Total . . .	\$62,810.00

\*Loss

There is no evidence in the record which would lead us to conclude that the price to be paid by Lockheed for the outstanding capital stock of Airports is inadequate or otherwise inconsistent with the public interest.

Accordingly, on the basis of the foregoing findings of fact and a full consideration of all of the evidence in the record, we find that the acquisition of all of the outstanding capital stock of United Airports Company of California, Ltd., by Lockheed Aircraft Corporation from United Air Lines Transport Corporation would not be inconsistent with the public interest. The record is clear that the proposed acquisition would not result in creating a monopoly or monopolies, and thereby restrain competition or jeopardize another air carrier not a party to the transaction. The joint application filed in this proceeding is, therefore, approved.

An appropriate order will be entered.

Branch, Chairman, Ryan and Baker, Members of the Board, concurred in the above opinion. Warner and Mason, Members, did not take part in the decision.

**Notice of Hearing.**

Civil Aeronautics Authority, Civil Aeronautics Board, Washington, D. C.

In the matter of the Application of United Air Lines Transport Corporation Lockheed Aircraft Corporation, under section 408(b) of the Civil Aeronautics Act of 1938 for approval of the acquisition by Lockheed Aircraft Corporation from United Air Lines Transport Corporation of the outstanding capital stock of United Airports Company of California, Ltd., Docket No. 507.

The above-entitled proceeding is hereby assigned for public hearing on November 19, 1940, 10 o'clock a.m. (Eastern Standard Time) at the Carlton Hotel, 923 16th Street, N.W., Washington, D. C., before Examiner J. Francis Reilly.

Dated Washington, D. C., November 13, 1940.

By the Civil Aeronautics Board:

/s/ Thomas G. Early  
Thomas G. Early  
Secretary

(Seal)

**PLAINTIFFS AND INTERVENING PLAINTIFFS  
EXHIBIT 5.**

Department of Commerce, Civil Aeronautics Administration, Washington 25, D. C.

- ☒ Approach Light Lane Site High Intensity
- ☒ Instrument Landing System Sites
- ☒ Radar Sites

Location Lockheed Air Terminal, Burbank, California.

**LICENSE**

1. For and in consideration of One Dollar (\$1.00) for period 1/1/51 to 6/30/51 per annum and in view of the benefit to the Lockheed Air Terminal Airport and to the general public utilizing same, the undersigned, hereinafter referred to as the licensor, hereby grants to the United States of America the license, right and privilege to install, operate and maintain an approach light lane; an instrument landing system; radar facilities; and necessary control facilities, upon the following described lands in the County of Los Angeles in the State of California more particularly described as follows:

See Exhibit "A" attached.

Note: Items 2 and 5 of Exhibit "A" have been deleted, inasmuch as these two sites are located on U. S. Government property. License application for these two sites should be requested from the U. S. Engineers.

2. Together with the right of ingress and egress over the said lands and adjoining lands of the licensor, necessary or convenient for the installation, operation and maintenance of the approach light lane; an instrument landing system; radar facilities; and necessary con-

and facilities; and a right-of-way for a power line and control line, overhead and underground, or other facilities, over and across the said lands and adjoining lands of the licensor, said right of ingress and egress and said right-of-way, unless hereinbefore described by metes and bounds, to be by the most convenient routes; and the right to utilize any existing power lines, control lines, conduits, or other facilities of the licensor which are adaptable to use in connection with the purpose of this license.

3. The right of ingress and egress and the right-of-way herein granted shall inure to the benefits of the licensee and its duly authorized agents, representatives, contractors and employees.

4. The licensor further agrees not to erect or to allow to be erected on the property licensed hereby or on adjacent property of the licensor, any structure or obstruction of whatsoever kind or nature as will interfere with the proper operation of the facilities to be installed by the Government under the terms of this license unless consent thereto shall first be secured from the licensee in writing.

5. This license shall become effective January 1, 1951 and shall remain in force until June 30, 1951 and may, at the option of the Government be renewed from year to year, at a rental of One Dollar (\$1.00) per annum and otherwise upon the terms and conditions specified, provided notice be given in writing to the licensor at least thirty days before this license or any renewal thereof would otherwise expire: Provided Further, That no renewal thereof shall extend the period of occupancy of the premises beyond the 30th day of June 1971.



6. This license may be cancelled by either party upon six months notice in writing, or at any date which may be mutually agreed upon.

7. All structures, improvements, or other property placed upon the said premises by the United States shall remain its property and may be removed by it upon the expiration or termination of this license or within 90 days thereafter.

8. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this license or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company, if the license be for the general benefit of such corporation or company.

9. **NON-DISCRIMINATION:** The licensor shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The licensor shall include a similar provision in any subcontract he may enter into in connection with the performance of this license. (Executive Order 9346 dated May 27, 1943).

Dated this 26th day of April, 1951.

**LOCKHEED AIR TERMINAL, INC.**

/s/ Cyril Chappellet

Licensor, President

Address:

2627 No. Hollywood Way

Burbank, California

**ACCEPTED:**

**UNITED STATES OF AMERICA**

By: /s/ "F. G. Jennings"

F. G. Jennings

Chief, Procurement Branch

Civil Aeronautics Administration

If licensor is a corporation, the following certificate shall be executed by the secretary or assistant secretary)

I, L. W. WULFEKUHLE, certify that I am the Secretary of the Corporation named as licensor in this license that CYRIL CHAPPELLET, who signed said license on behalf of the licensor, was then President of said corporation, that said license was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

/s/ Wulfekuhler (corporate)

#### EXHIBIT "A"

1. *Localizer Site:* A plot of ground extending 265 feet westerly from a point 940 feet westerly of the west end of Runway #7 and on the centerline produced of said runway and extending 210 feet south and 235 feet north of said extended centerline, containing 2-2/3 acres more or less.
2. *Glide Path Site:* A plot of ground 60 feet square two sides of which are parallel to Runway #7 the center of which is 400 feet north of the centerline of Runway #7 and 750 feet east of the west end of said runway, containing 0.03 acres more or less.
3. *Middle Compass Locator Site:* A plot of ground extending 65 feet westerly from a point 2600 feet westerly of the west end of Runway #7 and on the centerline produced of said runway and extending 15 feet south, or to said railroad right-of-way line and 210 feet north of said extended centerline containing 0.34 acres more or less.

4. **High Intensity Approach Light Lane:** A right-of-way for a high intensity ladder type approach light lane, substation and connecting cables over a strip of land 50 feet in width with centerline parallel to and 165 feet north of the centerline of Runway #7 extended west from the west end of Runway #7 approximately 2930 feet to the east right-of-way line of Tujunga Avenue and excluding the said right-of-way of Vineland Avenue. The regulator substation shall consist of a plot of ground approximately 50 feet square, two sides of which are parallel to Runway #7 the center of which is 210 feet north of the centerline of Runway #7 and approximately 450 feet west of the west end of said runway, containing 0.06 acres more or less.

5. **Airport Surveillance Site:** A plot of ground 65 feet square, two sides on which are parallel to Runway #7 the center of which is approximately 1150 feet north of centerline Runway #7 and 1800 feet east of the west end of said runway, containing 0.17 acres more or less. The site shall be located adjacent to the airport boundary fence, along Sherman Way and at a location mutually agreed upon by officials of Lockheed and Civil Aeronautics Administration.

6. **Lighting System:** A plot of ground 65 feet square, two sides on which are parallel to Runway #7 the center of which is approximately 1150 feet north of centerline Runway #7 and 1800 feet east of the west end of said runway, containing 0.17 acres more or less. The site shall be located adjacent to the airport boundary fence, along Sherman Way and at a location mutually agreed upon by officials of Lockheed and Civil Aeronautics Administration.

**PLAINTIFFS AND INTERVENING PLAINTIFFS  
EXHIBIT 6.**

**C6en-3975**

**Lockheed Air Terminal**

**Burbank, California**

**Localizer Site, Middle**

**Compass Locator Site,**

**and High Intensity**

**Approach Light Lane**

**SUPPLEMENTAL AGREEMENT #1**

This Supplemental Agreement entered into this 27th day of May, 1952, by and between the UNITED STATES OF AMERICA, hereinafter called the Government, represented by the contracting officer executing this Agreement, and

**LOCKHEED AIR TERMINAL, INC.**

**2627 NORTH HOLLYWOOD WAY**

**BURBANK, CALIFORNIA**

WHEREAS, on the 26th day of April, 1951, the parties hereto entered into a lease covering the installation of an Instrument Landing System Localizer, Middle Compass Locator and a High Intensity Approach Light Lane on the Lockheed Air Terminal, Burbank, California and

NOW THEREFORE, inasmuch as the Government desires to install a High Intensity Approach Light Lane 165 feet north of the center line of Runway #7 to take advantage of the full width of the runway, Paragraph No. 4 of Exhibit "A" of Contract C6en-3975 dated April 26, 1951, shall be modified, effective May 1, 1952, in the following particulars, but in no other:

Paragraph 4, Exhibit "A",

Delete from line 4 of Paragraph No. 4, Exhibit "A" 125 feet and insert in line 4 of Paragraph 4 of Exhibit "A", 165 feet.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written.

**LOCKHEED AIR TERMINAL, INC.**

/s/ L. W. Wulfekuhler

Secretary

LWF

JM

**UNITED STATES GOVERNMENT**

/s/ P. O. Jennings

P. O. Jennings

Chief, Procurement Branch

Civil Aeronautics Administration

C4ca-2127-A

Lockheed Air Terminal

Burbank, California

Localizer Site, Middle

Compass Locator Site,

and High Intensity

Approach Light Lane

**SUPPLEMENTAL AGREEMENT #2**

This Supplemental Agreement entered into this 24th day of July, 1957, by and between the UNITED STATES OF AMERICA, hereinafter called the Government, represented by the contracting officer executing this Agreement, and

**LOCKHEED AIR TERMINAL, INC.**

**2627 NORTH HOLLYWOOD WAY**

**BURBANK, CALIFORNIA**

WHEREAS, on the 26th day of April, 1951, the parties hereto entered into a License for the installation, operation, and maintenance of an Instrument Landing System Localizer, Middle Compass Locator and a High Intensity Approach Light Lane on certain lands in the County of Los Angeles, State of California, and designated as Contract No. C6en-3975.

WHEREAS, on the 27th day of May, 1952, the parties hereto entered into Supplemental Agreement No. 1, whereby Paragraph 4, Exhibit "A" of said License was amended in certain respects, and

WHEREAS, by letter dated July 20, 1953, the Government redesignated said License effective July 1, 1953, to be known as Contract No. C4en-2127-A.

WHEREAS, the Government desires to install a Configuration "A" Approach Light System along the centerline of Runway 7 extended west approximately 2930 feet. Portions of such Approach Light System shall be on land which Lockheed Air Terminal, Inc. is licensed the use by the United States of America under Contract No. W-3460-Eng-747, dated June 15, 1944, as amended. Other portions of such Approach Light System shall be on land owned in fee by the United States of America, jurisdiction over these portions being vested in Sacramento Air Material Area.

NOW THEREFORE, subject to the rights granted Lockheed Air Terminal, Inc. by the United States of America, and limited to the extent Lockheed Air Terminal, Inc. is licensed to extend these rights to others, the parties hereto agree to further modify said License, effective June 1, 1957, as follows:

1. Exhibit "A" of said License shall be deleted in its entirety, and the following shall be substituted in lieu thereof:



EXHIBIT "A"

1. *Localizer Site:* A plot of ground extending 265 feet westerly from a point 940 feet westerly of the west end of Runway #7, and on the centerline produced of said runway and extending 210 feet south and 235 feet north of said extended centerline, containing 2-2/3 acres more or less.
2. *Middle Compass Locator Site:* A plot of ground extending 65 feet westerly from a point 2600 feet westerly of the west end of Runway #7 and on the centerline produced of said runway and extending 15 feet south, or to said railroad right-of-way line and 210 feet north of said extended centerline containing 0.34 acres more or less.
3. *Configuration "A" Approach Light System:* A right-of-way for a Configuration "A" Approach Light System as shown on CAA Drawings No. 4-D-5577-IX and 4-D-5577-2X, over a strip of land 330 feet wide, 165 feet being on both sides of the centerline of Runway #7, extended westerly from the west end of Runway #7 approximately 2930 feet to the east right-of-way line of Tujunga Avenue, the northerly right-of-way of the Southern Pacific Railroad Company and excluding the right-of-way of Vineland Avenue. The Regulator Substation shall consist of a plot of ground approximately 50 feet square, two sides of which are parallel to Runway

#7, the center of which is 210 feet north of the extended centerline of Runway #7 and approximately 450 feet westerly of the west end of Runway #7.

2. Except as herein modified and amended, the terms of said License shall remain in full force and effect during the term thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement No. 2 as of the day and year first written.

**LOCKHEED AIR TERMINAL INC.**

Original Signed by

**L. W. Wulfekuhler**

**UNITED STATES GOVERNMENT**

/s/ **E. R. Main**

**E. R. Main, Chief**

**Lease and Utilities Section**

**Civil Aeronautics Administration**

I, **D. M. SIMMONS**, certify that I am the Secretary of Lockheed Air Terminal, Inc., the corporation named in the attached Supplemental Agreement #2; that **L. W. Wulfekuhler**, who signed said Supplemental Agreement #2 on behalf of Lockheed Air Terminal, Inc., was then President of said corporation; that said Supplemental Agreement #2 was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Original signed by

**D. M. Simmons**

**FEDERAL AVIATION AGENCY**

**Region Four Headquarters**

**5651 West Manchester Boulevard**

**Los Angeles 45, California**

**January 4, 1960**

**Lockheed Air Terminal, Inc.**

**2627 North Hollywood Way**

**Burbank, California**

**Attention: Administrative Assistant—Finance**

**Gentlemen:**

**SUBJECT: Amendment of lease, license and/or permit to include automatic renewal clause.**

**Contract No. C4ca-2127-A**

**Location: Lockheed Air Terminal**

**Burbank, California**

**Facility Localizer, Middle Marker, Compass Locator,  
High Intensity Approach Light Lane - ILS**

**The above contract is modified effective February 1, 1960 by deleting Article 5 and adding the automatic renewal clause as follows:**

**Article 5:**

**"This lease may, at the option of the Government, be renewed from year to year at a rental of \$1.00 p.a., and otherwise upon the terms and conditions herein specified. The Government's option shall be deemed exercised and the lease renewed each year for one year unless the Government vacates the premises, or gives 30 days notice that it will not exercise its option, before this lease or any renewal thereof expires; Provided, That no renewal thereof shall extend the period of occupancy of the premises beyond the 30th day of June 1971: And Provided further, That adequate ap-**

appropriations are available from year to year for the payment of rentals."

All other terms and conditions of the contract to remain the same.

If you sell your property, or if you change your mailing address from that shown on this amendment, please advise this office immediately.

In witness whereof, the parties hereto have executed this amendment as of January 26, 1960.

**THE UNITED STATES OF AMERICA**

/s/ By: E. R. Main

E. R. Main, Chief

Real Estate & Public Utilities Section

I hereby agree to the amendment set forth above:  
Lockheed Air Terminal, Inc.

/s/ By: ILLEGIBLE

TITLE:

**U. S. Government Equipment  
Used in the Control of Aircraft  
At Hollywood-Burbank Airport**

- 1) Air Traffic Control Tower Equipment  
(Receivers, transmitters, recorders, wind direction and velocity indicators, land line communication equipment, etc.)  
(Located in Bldg. 10)
- 2) Terminal Radar Approach Control (TRACO)  
(Located in Bldg. 10)
- 3) Bright Radar Indicator Terminal (BRITE-1)  
(Located in Bldg. 10 Tower Cab)

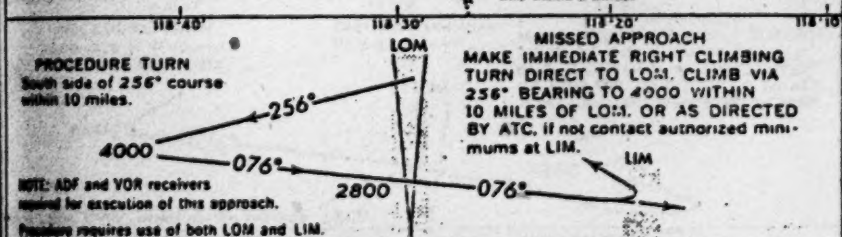
- 4) **Flight Data Entry and Print Out Equipment (EDEP)** (Located in Bldg. 10 TRACON room Tower Cab)
- 5) **Very High Frequency (VHF) Direction Finder (DF)** (Located in Bldg. 10 TRACON room)
- 6) **Runway Visual Visibility (RVV)** (Located in Bldg. 10 and Glide Slope area east of Vineland)
- 7) **Airport Surveillance Radar (ASR-5)** (Located north of the PAC area)
- 8) **Instrument Landing System (ILS)**  
**Outer Marker and Compass Locator** (Located on Van Nuys Airport)  
**Middle Marker and Compass Locator** (Located approximately 1-1/2 miles and 1/2 mile respectively from end of runway)  
**Localizer** (Located west of Vineland)  
**Glide Slope** (Located east of Vineland)
- 9) **Approach Light System**  
with sequential flashers (strobe lights)  
(Located west of Vineland Avenue)
- 10) **Runway End Identifier Lights (REIL)**  
(Located approach end of runway 15)
- 11) **Remote Transmitter Site (RT)**  
(Located at Plant C-1—old radar antenna site)
- 12) **Ceillometer, Dew Point and Temperature Equipment**  
(Located east of Tujunga and Bldg. 10 area)





**RADAR  
AVAILABLE**

6600±.



MINIMA			FIELD ELEVATION		
	65 knots or less 2 ang or less	Over 65 knots 2 ang or less		Over 65 knots Over 2 ang	
	DAY MINIMA	DAY MINIMA		DAY MINIMA	
15	900-1 900-1	900-1 900-1	900-1 900-1	900-1 900-1	
20	900-1 900-2	900-1 900-2	900-1 900-2	900-1 900-2	
25	900-1 900-1	900-1 900-1	900-1 900-1	900-1 900-1	
30	900-2 900-2	900-2 900-2	900-2 900-2	900-2 900-2	

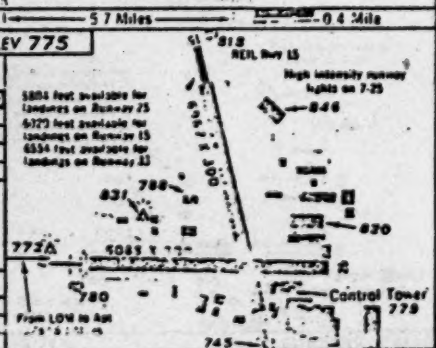
\*Not authorized for take-off on runway 25 only.

REMARKS: SHARP SCAL NA. Air carriers will not reduce landing visibility due to local conditions. Air carrier not authorized below 1/2 mile for take-off below 7.15 and 33.

Temperature table does not apply to HIRL or ALS Runway 7.

MINIMUM FACILITY TO MISSED APPROACH 3.7 NM

15	90	100	110	120	130
20	120	130	140	150	160
25	130	140	150	160	170
30	140	150	160	170	180



AL-67-NDB (ADF)-1  
7 NOV. 1955

34°12'N - 118°21'W

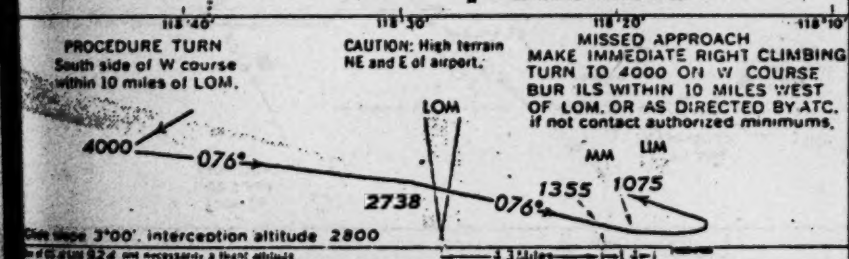
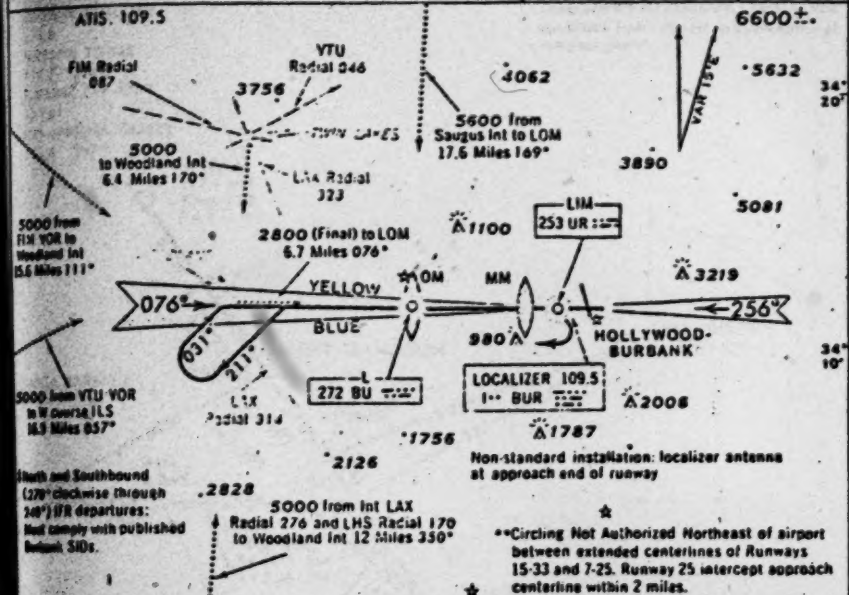
**HOLLYWOOD-BURBANK AIRPORT**

**BURBANK APPROACH CONTROL**  
120.4 360.6

**LOCALIZER 109.5**  
1 -- BUR  
GLIDE SLOPE 332.6

**BURBANK TOWER**  
118.7 254.3  
GROUND CONTROL 121.9 348.6

**RADAR**  
AVAILABLE



MINIMA				FIELD ELEV 775	
65 knots or less 2 eng or less		Over 65 knots 2 eng or less		Over 65 knots Over 2 eng	
DAY	NIGHT	DAY	NIGHT	DAY	NIGHT
1	200	200	200	200	200
2	200	200	200	200	200
3	200	200	200	200	200
4	200	200	200	200	200
5	200	200	200	200	200
6	200	200	200	200	200
7	200	200	200	200	200
8	200	200	200	200	200
9	200	200	200	200	200
10	200	200	200	200	200
11	200	200	200	200	200
12	200	200	200	200	200
13	200	200	200	200	200
14	200	200	200	200	200
15	200	200	200	200	200
16	200	200	200	200	200
17	200	200	200	200	200
18	200	200	200	200	200
19	200	200	200	200	200
20	200	200	200	200	200
21	200	200	200	200	200
22	200	200	200	200	200
23	200	200	200	200	200
24	200	200	200	200	200
25	200	200	200	200	200
26	200	200	200	200	200
27	200	200	200	200	200
28	200	200	200	200	200
29	200	200	200	200	200
30	200	200	200	200	200
31	200	200	200	200	200
32	200	200	200	200	200
33	200	200	200	200	200
34	200	200	200	200	200
35	200	200	200	200	200
36	200	200	200	200	200
37	200	200	200	200	200
38	200	200	200	200	200
39	200	200	200	200	200
40	200	200	200	200	200
41	200	200	200	200	200
42	200	200	200	200	200
43	200	200	200	200	200
44	200	200	200	200	200
45	200	200	200	200	200
46	200	200	200	200	200
47	200	200	200	200	200
48	200	200	200	200	200
49	200	200	200	200	200
50	200	200	200	200	200
51	200	200	200	200	200
52	200	200	200	200	200
53	200	200	200	200	200
54	200	200	200	200	200
55	200	200	200	200	200
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57	200	200	200	200	200
58	200	200	200	200	200
59	200	200	200	200	200
60	200	200	200	200	200
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63	200	200	200	200	200
64	200	200	200	200	200
65	200	200	200	200	200
66	200	200	200	200	200
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68	200	200	200	200	200
69	200	200	200	200	200
70	200	200	200	200	200
71	200	200	200	200	200
72	200	200	200	200	200
73	200	200	200	200	200
74	200	200	200	200	200
75	200	200	200	200	200
76	200	200	200	200	200
77	200	200	200	200	200
78	200	200	200	200	200
79	200	200	200	200	200
80	200	200	200	200	200
81	200	200	200	200	200
82	200	200	200	200	200
83	200	200	200	200	200
84	200	200	200	200	200
85	200	200	200	200	200
86	200	200	200	200	200
87	200	200	200	200	200
88	200	200	200	200	200
89	200	200	200	200	200
90	200	200	200	200	200
91	200	200	200	200	200
92	200	200	200	200	200
93	200	200	200	200	200
94	200	200	200	200	200
95	200	200	200	200	200
96	200	200	200	200	200
97	200	200	200	200	200
98	200	200	200	200	200
99	200	200	200	200	200
100	200	200	200	200	200

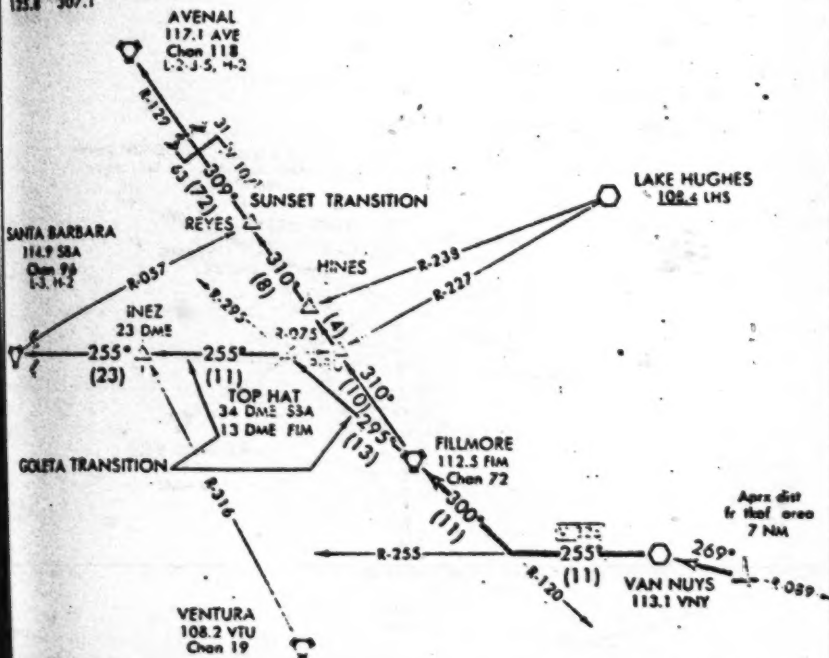
# FILMORE THREE DEPARTURE

23

HOLLYWOOD - BURBANK  
BURBANK, CALIF.

BURBANK GND CON  
121.9 348.6  
BURBANK CLNC DEL  
118.0  
BURBANK TOWER  
118.7 254.3  
BURBANK DEP CON  
124.6  
LOS ANGELES CENTER  
123.8 307.1

NOTE: IFR departures from Rwy 7 not authorized unless aircraft able to conduct flight in VFR conditions from take-off to interception of assigned course.



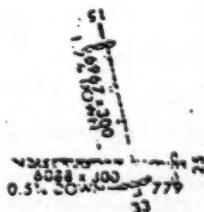
## DEPARTURE ROUTE DESCRIPTION

Take-off Runway 15, 25: Turn right. Thence  
Take-off Runway 33: Turn left. Thence  
via VAN NUYS 089 radial to VAN NUYS,  
thence via VAN NUYS 255 and FILLMORE 120  
radials to FILLMORE. Thence via (transition) or  
(assigned route).

GOLETA TRANSITION: Via FILLMORE 295 and  
SANTA BARBARA 075 radials to SANTA  
BARBARA.

SUNSET TRANSITION: Via FILLMORE 310 and  
AVENAL 129 radials to AVENAL.

ELEV 775



FILMORE THREE DEPARTURE

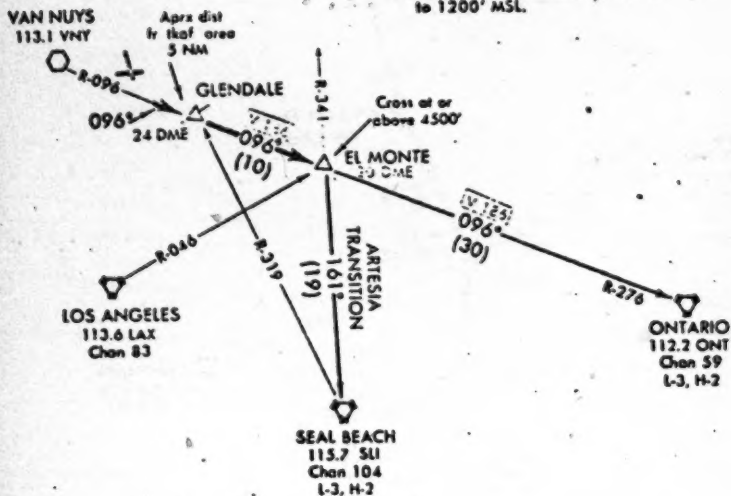
24

BURBANK, CALIF.  
HOLLYWOOD - BURBANK

## EL MONTE SEVEN DEPARTURE

BURBANK GND CON  
121.9 348.6  
BURBANK CLNC DEL  
118.0  
BURBANK TOWER  
118.7 354.3  
BURBANK DEP CON  
124.6  
LOS ANGELES CENTER  
125.3 307.1

NOTE: 1. Rwy 7 take-off Not Authorized with this procedure.  
2. This SID requires a minimum climb rate as specified below:  
Take-offs Rwy 15, 347' per NM to 2000' MSL.  
Take-offs Rwy 25, 283' per NM to 2000' MSL.  
Take-offs Rwy 33, 480' per NM to 1200' MSL.



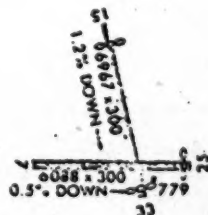
## DEPARTURE ROUTE DESCRIPTION

Take-off Runway 15, 25, 33: Turn left. Thence via VAN NUYS 096 radial to EL MONTE INTXN. Thence via (transition). Cross EL MONTE INTXN at (minimum 4500').

ONTARIO TRANSITION: Via ONTARIO 276 radial to ONTARIO.

ARTESIA TRANSITION: Via SEAL BEACH 341 radial to SEAL BEACH.

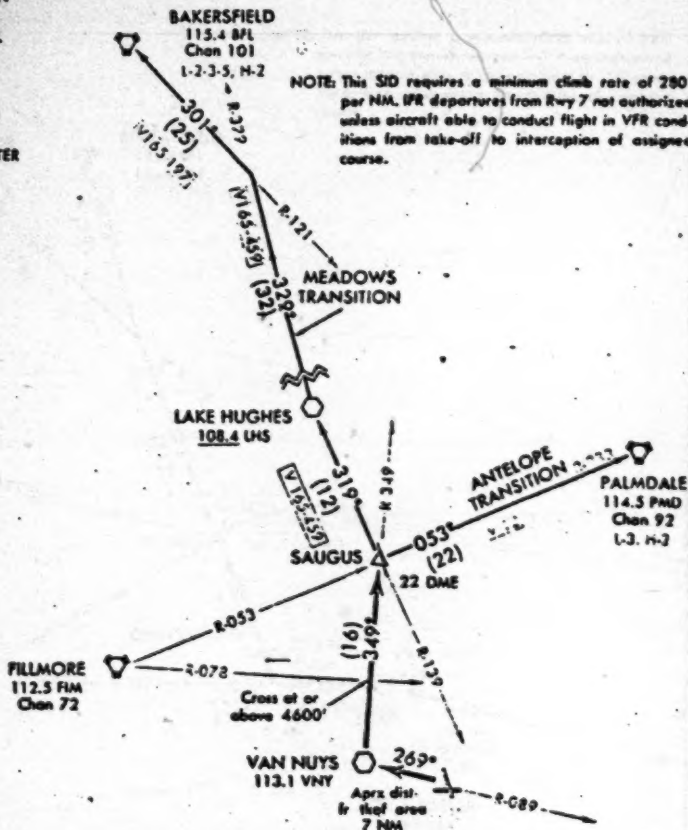
ELEV 775



BURBANK GND CON  
121.9 348.6  
BURBANK CLNC DEL  
118.0  
BURBANK TOWER  
118.7 254.3  
BURBANK DEP CON  
124.6  
LOS ANGELES CENTER  
125.8 307.1

BAKERSFIELD  
113.4 BPL  
Chen 101  
1-2-3-5, N-2

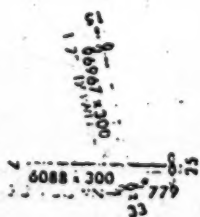
NOTE: This SID requires a minimum climb rate of 280' per NM. IFR departures from Rwy 7 not authorized unless aircraft able to conduct flight in VFR conditions from take-off to interception of assigned course.



## DEPARTURE ROUTE DESCRIPTION

Take-off Runway 15, 25: Turn right. Thence  
Take-off Runway 33: Turn left. Thence  
via VAN NUYS 089 and 349 radials to SAUGUS  
INTXN. Thence via (transition) or (assigned route).  
Cross FILLMORE 078 radial at (minimum 4600').  
MEADOWS TRANSITION: Via LAKE HUGHES  
139 radial to LAKE HUGHES, thence via LAKE  
HUGHES 329 and BAKERSFIELD 121 radials to  
BAKERSFIELD.  
ANTELOPE TRANSITION: Via PALMDALE 233  
radial to PALMDALE.

ELEV 775



# TWIN LAKES TWO DEPARTURE

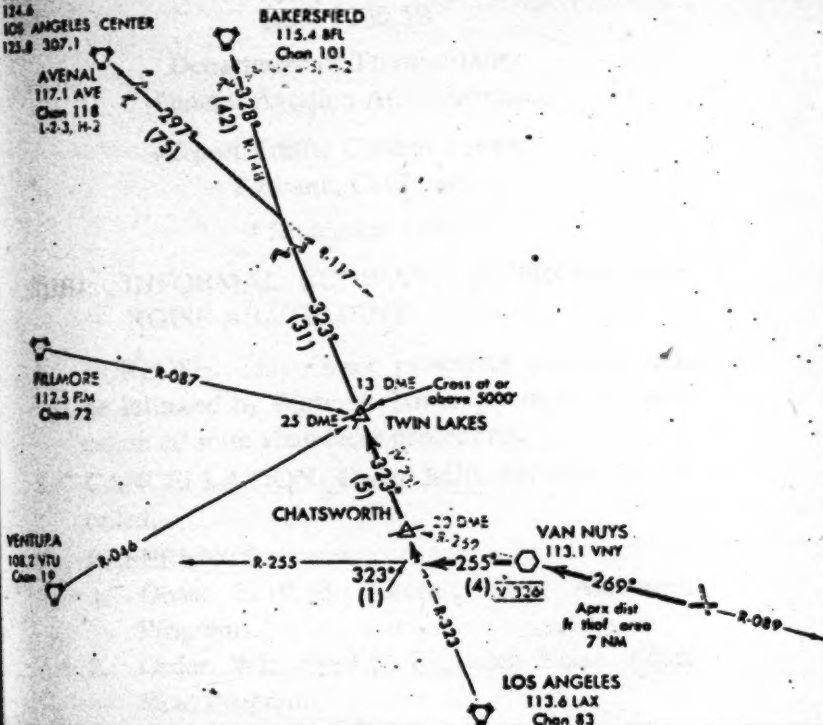
HOLLYWOOD—BURBANK  
BURBANK, CALIFORNIA

BURBANK GND CON  
121.9 342.6  
BURBANK CLNC DEL  
118.0  
BURBANK TOWER  
118.7 254.3  
BURBANK DEP CON  
124.6  
LOS ANGELES CENTER  
123.8 307.1

BAKERSFIELD  
115.4 BFL  
Chan 101

AVENAL  
117.1 AVE  
Chan 118  
1-2-3, H-2

NOTE: This SID requires a minimum climb rate of 280' per NM. IFR departures from Runway 7 not authorized unless aircraft able to conduct flight in VFR conditions from take-off to interception of assigned course.



## DEPARTURE ROUTE DESCRIPTION

ELEV 775

Take-off Runway 15, 25: Turn right. Thence  
Take-off Runway 33: Turn left. Thence  
via VAN NUYS 089 radial to VAN NUYS, thence  
via VAN NUYS 255 and LOS ANGELES 323 radials  
to TWIN LAKES INTXN. Thence via (transition)  
or (assigned route). Cross TWIN LAKES  
INTXN at (minimum 5000').

**BAKERSFIELD TRANSITION:** Via LOS ANGELES  
323 and BAKERSFIELD 148 radials to  
BAKERSFIELD.

**AVENAL TRANSITION:** Via LOS ANGELES 323  
and AVENAL 117 radials to AVENAL.



TWIN LAKES TWO DEPARTURE

BURBANK, CALIFORNIA  
HOLLYWOOD—BURBANK



**PLAINTIFFS' AND INTERVENING PLAINTIFFS  
EXHIBIT 30.**

**ORDER**

**BUR 7100.5B**

**Department of Transportation  
Federal Aviation Administration**

**Airport Traffic Control Tower  
Burbank, California**

**4 September 1969**

**SUBJ: INFORMAL RUNWAY USE PROGRAM—  
NOISE ABATEMENT**

1. **PURPOSE.** This Order prescribes procedures to be followed by Burbank Tower personnel in application of noise abatement procedures.
2. **CANCELLATION.** Order BUR 7100.5A is cancelled.
3. **REFERENCE.**
  1. Order 7110.13, Aircraft Noise Abatement Programs.
  2. Order WE 7490.1, Regional Noise Abatement Program.
  3. FAR 91.87(d), Minimum Altitudes.
4. **BACKGROUND.** The problem of noise in the vicinity of the Hollywood-Burbank Airport has become increasingly serious. More noise complaints are being received. Threats of legal action to be taken to obtain relief from noise are being heard. We need to do everything practicable and within reason to reduce the noise exposure to residents living near the airport. The workload caused in handling and following-up on noise complaints has in-

creased to the point where it occupies a major portion of the administrative workload of the facility. Procedures established for the Hollywood-Burbank airport are designed to reduce the community exposure to noise to the lowest practicable minimum. The procedures are not mandatory on the part of the pilots, however, traffic controllers must be noise abatement conscious and emphasize noise abatement in order to obtain the highest degree of voluntary cooperation from pilots. The area within a 5-mile radius of the Hollywood-Burbank Airport is considered to be a noise-sensitive area.

**5. PROCEDURES.** The following procedures apply to large (over 12,500 pounds) aircraft and all turbine powered aircraft:

- a. Normally, do not assign runway 7 for departures, or runway 25 for arrivals.
- b. Traffic and weather permitting, make every effort to use runway 7 for 11-5 arrivals of turbine powered aircraft. Needless to say, authorizing the landing of a turbine powered aircraft on runway 7 while landing light aircraft on runway 15 should be handled with extreme caution. The occasional issuance of a "go-around" to a light aircraft landing on runway 15 under these circumstances would not be considered an "abnormal operation". (This will also remove jet aircraft from the light aircraft traffic pattern and reduce instances of jet aircraft allegedly encroaching on the Whiteman Airpark traffic pattern.)

- c. Traffic and weather permitting, use runway 25 for departures of turbine powered aircraft as much as possible during period from approximately 2300 to 0700 local time when people are asleep (residential area is less dense and further from end of runway west of 25 than south of 15).
- d. When issuing wind information, give both wind direction and velocity. Do not describe wind as calm unless the velocity is zero.
- e. In the event a pilot requests departure on runway 7 or landing on runway 25, honor the request, traffic permitting, but inform the pilot that the runway is "noise sensitive". (Residential area closest east of airport.)
- f. These procedures are not intended to incur delays to aircraft or hamper the controller in handling airport traffic. If the traffic situation existing at the time requires the use of runways contrary to these procedures, controllers may deviate from the procedures. *Controllers are expected to use good judgment in making this determination.*
- g. Report to the office any particular aircraft or company which consistently declines to cooperate with the noise abatement program.

/s/ R. N. Lemmer

R. N. Lemmer

Chief, Burbank Tower

**ORDER**

**BUR 7100.5A**

**Federal Aviation Agency  
Airport Traffic Control Tower  
Burbank, California**

**SUBJ: INFORMAL RUNWAY USE PROGRAM—  
NOISE ABATEMENT**

1. **PURPOSE.** This Order prescribes procedures to be followed by Burbank Tower personnel in application of noise abatement procedures.
2. **CANCELLATION.** Order BUR 7100.5 is cancelled.
3. **REFERENCE.** Order 7110.13, Aircraft Noise Abatement Programs.
4. **BACKGROUND.** The problem of noise in the vicinity of airports is becoming increasingly serious. More noise complaints are being received, more legal action is being taken to obtain relief from noise, and if the situation does not improve, it may be that runways or even entire airports will be closed because of noise. The workload caused by processing and follow-up on noise complaints has increased to the point where it seriously hampers administrative personnel in the performance of other important duties. Procedures have been established for the Hollywood-Burbank airport which should reduce the incidence of noise complaints. The procedures are not mandatory on the part of the pilots, however, traffic controllers must emphasize noise abatement in order to obtain the highest degree of voluntary cooperation by pilots.

5. **PROCEDURES.** The following procedures apply to large (over 12,500 pounds) aircraft and all turbine powered aircraft:

- a. The area within a 5-mile radius of the Hollywood-Burbank Airport is considered to be a noise-sensitive area.
- b. Normally, do not assign runway 7 for departures, or runway 25 for arrivals.
- c. During periods of little or no traffic use runway 7 for arrivals of turbine powered aircraft.
- d. When issuing wind information, give both wind direction and velocity. Do not describe wind as calm unless the velocity is zero.
- e. In the event a pilot requests departure on runway 7 or landing on runway 25, honor the request, traffic permitting, but inform the pilot that the runway is "noise sensitive".
- f. These procedures are not intended to hamper the controller in handling airport traffic. If the existing traffic situation requires the use of runways contrary to these procedures, controllers may deviate from the procedures. Controllers are expected to use good judgment in making this determination.
- g. Report to the office any particular aircraft or company which consistently declines to cooperate with the noise abatement program.

/s/ R. N. Lemmer

R. N. Lemmer

Chief, Burbank Tower

**ORDER**

**BUR 7100.5**

**Federal Aviation Agency**

**Airport Traffic Control Tower**

**Burbank, California**

**April 23, 1968**

**SUBJ: INFORMAL RUNWAY USE PROGRAM—  
NOISE ABATEMENT**

1. **PURPOSE.** This Order prescribes procedures to be followed by Burbank Tower personnel in application of noise abatement procedures.
2. **CANCELLATION.** Order BUR 7100.3 is cancelled.
3. **REFERENCE.** Order 7110.13, Aircraft Noise Abatement Programs.
4. **BACKGROUND.** The problem of noise in the vicinity of airports is becoming increasingly serious. More noise complaints are being received, more legal action is being taken to obtain relief from noise, and if the situation does not improve, it may be that runways or even entire airports will be closed because of noise. The workload caused by processing and follow-up on noise complaints has increased to the point where it seriously hampers administrative personnel in the performance of other important duties. Procedures have been established for the Hollywood-Burbank airport which should reduce the incidence of noise complaints. The procedures are not mandatory on the part of pilots, however, traffic controllers must emphasize noise abatement in order to obtain the highest degree of voluntary cooperation by pilots.



5. **PROCEDURES.** The following procedures apply to large (over 12,500 pounds) aircraft and all turbine powered aircraft:

- a. The area within a 5-mile radius of the Hollywood-Burbank Airport is considered to be a noise-sensitive area.
- b. Normally, do not assign runway 7 for departures, or runway 25 for arrivals.
- c. When issuing wind information, give both wind direction and velocity. Do not describe wind as calm unless the velocity is zero.
- d. In the event a pilot requests departure on runway 7 or landing on runway 25, honor the request, traffic permitting, but inform the pilot that the runway is "noise sensitive".
- e. These procedures are not intended to hamper the controller in handling airport traffic. If the existing traffic situation requires the use of runways contrary to these procedures, controllers may deviate from the procedures. Controllers are expected to use good judgment in making this determination.
- f. Report to the office any particular aircraft or company which consistently declines to cooperate with the noise abatement program.

/s/ R. N. Lemmer

R. N. Lemmer

Chief, Burbank Tower

**ORDER**

**BUR 7100.3**

**Federal Aviation Agency**

**Airport Traffic Control Tower**

**Burbank, California**

**SUBJ: USE OF NOISE ABATEMENT RUNWAYS**

1. **PURPOSE.** This Order prescribes procedures which shall be followed by Burbank Tower personnel in order to encourage use of noise-abatement runways.
2. **BACKGROUND.** The problem of noise in the vicinity of airports is becoming increasingly serious. More noise complaints are being received, and more legal action is being taken to obtain relief from noise. Air traffic control procedures have been restricted in the interest of noise abatement, and, if the situation does not improve, it may be that runways or even entire airports will be closed because of noise. The workload caused by processing and follow-up on noise complaints has increased to the point where it seriously hampers administrative personnel in the performance of other important duties. Procedures have been established for the Hollywood-Burbank airport which, if followed, should reduce the incidence of noise complaints. These procedures have, for the most part, been ignored by both pilots and traffic controllers. The procedures are not mandatory on the part of pilots, however, traffic controllers must emphasize noise abatement in order to obtain the higher degree of voluntary cooperation by pilots.

### 3. PROCEDURES.

- a. The following order of runway preference has been established:
  - (1) Takeoff day and night: Runway 15, Runway 25, Runway 33, Runway 7.
  - (2) Landing day and night: Runway 15, Runway 7, Runway 33, Runway 25.
- b. These procedures are applicable only when:
  - (1) Runways are clear and dry.
  - (2) The wind velocity does not exceed fifteen (15) knots.
  - (3) The crosswind component does not exceed 80° from either side of the centerline of the runway in the direction of use.

### 4. ACTION

- a. When conditions described above permit application of noise abatement procedures, controllers shall assign a noise abatement runway to all large aircraft (12,500 lbs. and over) and to all turbojet aircraft, in accordance with the following guidelines.
- b. If a pilot requests takeoff on runway 7, or landing on runway 25, inform him, "Runway (number of runway in use) is a noise abatement runway".
- c. If the pilot then repeats his request, approve or disapprove the request solely on the basis of traffic.
- d. These procedures are not intended to hamper the controller in handling airport traffic. If the existing traffic situation requires the use

of a runway other than a noise-abatement runway, controllers may deviate from these procedures. Controllers are expected to use good judgment in making this determination.

- e. Report to the office any particular aircraft or company which consistently refuses to cooperate in the use of noise-abatement runways.

/s/ R. N. Lemmer

R. N. Lemmer

Chief, Burbank Tower

# **PLAINTIFFS' AND INTERVENING PLAINTIFFS EXHIBIT 32.**

## **FACILITY MANAGEMENT**

October 1, 1969.

Federal Aviation Administration  
Air Traffic Service

Facility Management  
72103

### **Foreword**

#### **1. PURPOSE.**

This handbook comprised of four Parts, governs operation and administration of the operating facilities of the Air Traffic Control System. It provides instruction, standards and guidance for facility supervisory personnel. Part I contains information of a basic nature that is applicable to all facilities. Part II applies to Air Route Traffic Control Centers; Part III to Terminal Traffic Control facilities; and Part IV to Flight Service Stations.

#### **2. EFFECTIVE DATE:**

This handbook is effective 10/1/69.

#### **3. CANCELLATION.**

Facility Operation, 7230.1, is cancelled.

#### **4. EXPLANATION OF MAJOR CHANGES.**

a. Certain parts of 7230.1 have not been included in 7210.3 since they appear in other publications as follows:

(1) Air Traffic Training, 3120.4, Change 1—Part 250, paragraphs 262.1 through 265, paragraph 256.6, paragraphs 266 through 266.10, Appendix 1 to Part 200.

(2) Terminal Air Traffic Control, 7110.8 En Route Air Traffic Control, 7110.9 Flight Services, 7110.10, Change 3—Part 501, Part 504, Part 510, and Part 515.

(3) Order 7230.7, FAA Near Midair Collision Study—Part 347 (The provisions of this Order will be incorporated in a future revision to 7210.3.)

b. 393, 417, 419, 420, 421. Adds provisions for preparing Incident and Flight Asst. Reports.

/s/ William M. Flener

**WILLIAM M. FLENER**

*Director, Air Traffic Service*

## **Chapter 12. Flow Control**

### **Section 1. General**

#### **1140. TYPES OF FLOW CONTROL**

Flow control service consists of:

a. **Flow Control Advisory**—Notifies the user of actual or anticipated delays due to weather, equipment outages, and special military activity. Provides information which permits the user to plan and dispatch flights economically.

b. **Flow Control Restriction**—Regulates the number of aircraft that can be accepted within an area; restricts altitudes and/or routes to be flown during a specified period of time.

#### **1141. ACTION BY AFFECTED CENTERS**

A flow control restriction obligates the centers addressed to comply with the requirements of the message by:

a. Clearing the aircraft on specified routes.



b. Establishing the separation required in time or altitude or distance as specified in the message.

c. Limiting the number of departures in a given time period.

#### 1142. JUDICIOUS USE OF FLOW CONTROL

Use flow control restrictions to regulate or restrict the flow of aircraft, within the affected area or at an altitude stratum, to the maximum number of aircraft which can be safely accommodated by the Air Traffic Control System.

#### 1143. INITIATING FLOW CONTROL

Initiate flow control advisories/restrictions whenever the best interest of the ATC system and its users will be served thereby.

#### 1144. COORDINATION WITH USERS

Facilities finding a need to initiate the same flow control restriction on a daily or continuing basis shall coordinate with the users for direct assistance in flight planning of appropriate routes/altitudes.

#### 1145-1154. RESERVED

### Section 2. Operations

#### 1155. ISSUANCE OF FLOW CONTROL ADVISORIES

Initiate flow control advisories for the area when you anticipate that:

a. Arrival delays will exceed 30 minutes and the condition causing the delay (weather, equipment, etc.) is expected to prevail for an extended period of time. Update delay information as subsequent delays increase or decrease by 15 minute intervals.

b. Normal flow of traffic will be disrupted by equipment/NAVAID outages or other factors such as military ALTRV.

c. Departure delays will exceed 30 minutes.

#### 1156. LIMITATIONS OF ADVISORIES

Limit flow control advisories to a period not to exceed 4 hours. Cancel or revise the advisory when the condition requiring its issuance is no longer applicable.

#### 1157. ADDRESSING ADVISORIES

Address flow control advisories to centers and FS's concerned using Area "B" circuit coding.

*Example:* Washington Center addressing to associated FSS's and adjacent centers and FSS's: XXW XXA XXJ XXL XXR XXV

#### 1158. ITEMS INCLUDED IN ADVISORIES

Include in Flow Control Advisories:

a. Identification of message as a FLOW CONTROL ADVISORY.

b. Anticipated delay in the Center's area.

c. Reason for the delay and other pertinent information.

d. Effective time when not immediate and void time of advisory.

#### 1159. MESSAGE FORMAT

To issue flow control advisory of anticipated delay, use message format similar to the following:

*Examples:*

"FLOW CONTROL ADVISORY. IFR AIRCRAFT LANDING KENNEDY ANTICIPATE 45 MINUTES DELAY. TRAFFIC VOID 021100."

"FLOW CONTROL ADVISORY. IFR AIRCRAFT LANDING DENVER CAN ANTICIPATE 35 MINUTE DELY. RADAR SERVICE NOT AVAILABLE. EFC-TV 141800 VOID 142200."

## **1160. ISSUANCE OF FLOW CONTROL RESTRICTION**

Initiate flow control restrictions for the area when the number of aircraft is expected to exceed the traffic handling capability of the facility.

## **1161-1169. RESERVED**

## **1170. LIMITATIONS OF RESTRICTIONS**

Limit flow control restrictions to a period not to exceed 4 hours.

a. To extend the provisions of a previously specified restriction, transmit a revised message at least 1 hour before the void time of the preceding message.

b. Cancel flow control restrictions as soon as practical.

## **1171. ADDRESSING RESTRICTIONS**

Address flow control restriction to:

a. Adjacent Centers and FSS's concerned using Area "B" circuit coding.

b. Any center beyond the adjacent center where terminals are expected to generate a significant amount of traffic for the affected area during the effective time of the message.

## **1172. ITEMS INCLUDED IN RESTRICTIONS**

Include the following in Flow Control restrictions:

a. Identification of message as a FLOW CONTROL RESTRICTION.

b. Restriction to route, altitude, and/or spacing as required.

c. Other pertinent information.

d. Effective time when not immediate and void time of the restriction.

# 1173. MESSAGE FORMAT

Use message format similar to the examples given below:

a. To increase spacing between aircraft being provided radar separation:

"FLOW CONTROL RESTRICTION. PROVIDE A MINIMUM OF 15 MILES SEPARATION BETWEEN TARGETS ON HANDOFF REGARDLESS OF ALTITUDE FOR AIRCRAFT LANDING KENNEDY VIA J60. VOID 210000."

b. To effect longitudinal separation:

(1) By spacing aircraft over fixes in equal units of time:

"FLOW CONTROL RESTRICTION. PROVIDE A MINIMUM OF 20 MINUTES SEPARATION BETWEEN AIRCRAFT REGARDLESS OF ALTITUDE FOR FLIGHTS EN ROUTE CLEVELAND ON V188. EFCTV 121000 VOID 121300."

(2) By spacing aircraft on a specific route and/or landing at a specific airport:

"FLOW CONTROL RESTRICTION. LIMIT AIRCRAFT VIA V116 LANDING O'HARE TO THREE PER HOUR. VOID 220100."

(3) By spacing aircraft at the same altitude along a route:

"FLOW CONTROL RESTRICTION. PROVIDE A MINIMUM OF 20 MINUTES SEPARATION BETWEEN AIRCRAFT AT THE SAME ALTITUDE ON V16. VOID 020100."

c. To effect vertical separation by separating arriving from en route aircraft:

"FLOW CONTROL RESTRICTION. ASSIGN TRAFFIC LANDING MIDWAY OR O'HARE 120 OR BELOW. ASSIGN EN ROUTE TRAFFIC 140 OR ABOVE. VOID 220100."

d. To effect lateral separation by requiring flight along a specific route:

(1) For preferential departure/arrival routings:

"FLOW CONTROL RESTRICTION. ROUTE V188 V90 TRAFFIC EN ROUTE WILLOW RUN VIA V116. VOID 220200."

(2) To relieve Center operating positions under saturation traffic or personnel shortage:

"FLOW CONTROL RESTRICTION. ROUTE AIRCRAFT ABOVE FL 240 PROCEEDING EAST OF CHICAGO TO ENTER AREA ON J64. VOID 221-900."

e. To restrict the adjacent Center to a specific number of aircraft per hour:

"FLOW CONTROL RESTRICTION. REQUEST 12 AIRCRAFT PER HOUR LANDING O'HARE REGARDLESS OF ROUTE OR ALTITUDE. VOID 220100."

#### 1174. ACTION AND RESPONSIBILITY

Forward flow control messages as soon as possible after it is determined that flow control service is required. Because of computer flight planning, dispatch offices need as much advance notice as possible to comply with route/altitude changes.

#### 1175. COORDINATION

Except when a flow control restriction message is forwarded 1 hour or more before its effective time, coordinate the restriction with appropriate Centers via Service F and follow up this action with a confirmation message via teletypewriter as soon as possible.

#### 1176. ISSUING INSTRUCTIONS

Issue the following information to the appropriate FSS, dispatch office, or operations office using a means

of communication and message format previously established by the Center:

- a. All current flow control advisories and restrictions which have been initiated or received.
- b. Arrival delays exceeding 30 minutes at terminals within its area.
- c. EAC times of affected aircraft, when feasible.
- d. Departure delays in excess of 30 minutes in any direction at terminals within the area.

### 1177. PROVIDE FLOW CONTROL FROM INDEPENDENT POSITION OF OPERATION

Where traffic volume requires, provide flow control service from an independent position of operation. In those Centers having insufficient traffic to warrant establishment of such a position, the Watch Supervisor on duty shall make alternative arrangements for providing flow control service.

### 1178-1199. RESERVED



## **Chapter 19. Flow Control**

### **Section 1. Notification Procedures**

#### **1850. ANTICIPATED DELAYS**

Notify the ARTCC when you anticipate that departing aircraft will incur delays of more than 30 minutes.

#### **1851. ADDITIONAL PERTINENT INFORMATION**

Notify the ARTCC of any other information you consider pertinent which relates to flow control.

#### **1852. AIRCRAFT UNDER TOWER EN ROUTE CONTROL JURISDICTION**

Issue delay times, as necessary, to aircraft under your jurisdiction to achieve consistency with delays issued to aircraft under ARTCC jurisdiction en route to your terminal area.

#### **1853. DELAYS OF MORE THAN 30 MINUTES**

Inform the ARTCC when you anticipate that en route, arriving, or departing aircraft under your jurisdiction will incur delays of more than 30 minutes.

#### **1854. FLOW CONTROL SERVICE**

Provide aircraft operating under tower en route control with flow control service, as necessary.

#### **1855-1899. RESERVED**

**PLAINTIFFS AND INTERVENING PLAINTIFFS  
EXHIBIT 33.**

**ORDER**

**ATTACHMENT B**

**230.12**

**Department of Transportation  
Federal Aviation Administration**

**4/27/70**

**SUBJ: CENTRAL FLOW CONTROL FACILITY**

1. **PURPOSE.** This Order establishes the Central Flow Control Facility (CFCF) and sets forth its organization, responsibilities, and functions.
2. **CANCELLATION.** Notice 7230.117 is cancelled.
3. **BACKGROUND.** The practice by air route traffic control centers (ARTCCs) of restricting the flow of air traffic to comply with immediate individual circumstances results in random points of congestion elsewhere in the system causing unplanned delays. The overall system capacity is usually adequate, given proper load dispersal, to contain the traffic creating the congestion. The ARTCCs are not equipped or staffed to perform the long range coordination necessary to effect needed balance between the total demands on the ATC system and its capacity to ensure continuing maximum utilization of the airspace. No method is foreseeable for enlarging the scope of centers sufficiently to give them such systemwide capability.
4. **OBJECTIVE.** Establish a central facility to collect and correlate air traffic information and

pertinent meteorological data for the purpose of achieving greater utilization of the airspace and balancing the system demand against its capacity.

5. **ESTABLISHMENT.** To provide for the collection, correlation and application of the information to achieve 4 above, the Central Flow Control Facility (CFCF) is hereby established in building FOB 10A, as a permanent air traffic control facility in the National Airspace System. CFCF shall function under the Director, Air Traffic Service.

6. **RESPONSIBILITIES.**

a. **CFCF shall:**

- (1) Manage the flow of air traffic throughout the ATC system to minimize en route delays and achieve the maximum utilization of the airspace. This shall be accomplished through investigation of system congestion points with recommended improvements, rerouting from point of origin significant portions of the known traffic demand, coordinated redistribution of dynamic system loading or by post action review and recommended remedial action to prevent recurrence of undesirable or untenable situations.
- (2) Concur or indicate nonconcurrency in proposed flow control restrictions by ARTCC's unless mutually agreed alternative measures are coordinated with the affected center.
- (3) Monitor the application of flow control restrictions issued throughout the system for duration and effectiveness and sug-

best methods to prevent recurrence when appropriate.

(4) Issue flow control instructions, when necessary, to relieve congestion and to assure the orderly flow of traffic. Prior to issuance, proposed flow control restrictions will be coordinated with the concerned ARTCCs.

(5) Determine overall ATC system capacity on a continuing basis by relating the condition of the National Airspace System components and continental weather patterns which affect it.

(6) Serve as an ATS Operations Command Post during periods of significant disruptions to air traffic services when required by the Director, Air Traffic Service, and provide equipment and personnel support as appropriate.

(7) Work directly with centers and towers as appropriate.

b. ARTCCs shall:

(1) Have final authority over the control of traffic at all times including the decision to issue flow control restrictions.

(2) Coordinate proposed flow control restrictions affecting intercenter traffic with CFCF prior to issuance unless safety of traffic dictates immediate action. The coordination process will include:

(a) The reason for the restriction.

(b) Expected duration.

(c) Discussion of alternative restrictions, if appropriate.

(d) Securing concurrence or nonconcurrence from CFCF in the specific restriction.

(3) When issuing flow control restrictions, designate the CFCF as an addressee (CFC). Administrative traffic to CFCF should be routed to RWA.

(4) Work directly with CFCF as appropriate.

c. **AT-300** shall:

(1) Exercise direct control and authority over the operation of CFCF as directed by AT-1.

(2) Pay the travel and per diem costs for flow controllers assigned to CFCF on temporary assignments.

d. **Regions** shall provide for the continuing assignment of currently qualified experienced flow controllers for periods of six weeks as requested by CFCF.

7. **ACTION.** All services, offices, regions, and facilities shall support CFCF to the extent of their resources and provide the assistance necessary to achieve the full implementation and continuance of the CFCF program.

/s/ J. H. Shaffer

J. H. Shaffer

Administrator

**PLAINTIFFS' AND INTERVENING PLAINTIFFS  
EXHIBIT 36.**

**Office of the Council  
City of Burbank  
California**

**September 14, 1967**

**Civil Aeronautics Board  
1825 Connecticut Ave., N.W.  
Washington 25, D.C.**

**Re: Dockets Nos. 18884 and 18909**

**Gentlemen:**

On behalf of the City Council of the City of Burbank, I am writing to urge that the Pacific Northwest-California Service Investigation (Docket No. 188-84) be reopened so that all carriers who wish to serve this area may be heard. Petitions for reconsideration of Board Order E-25504 and motions for consolidation which are intended to achieve this objective should be granted.

We are advised that Pacific Southwest Airlines, Inc. has filed such a petition and motion (Docket No. 18909) with your honorable body. It is not our policy to favor any one carrier over another, but we have had experience with this fine carrier and feel that it should be given the opportunity to present its case for service to the Pacific Northwest. What we are interested in is gaining service at Hollywood-Burbank Airport for the citizens of the City of Burbank and the more than two and one-half million residents of Los Angeles County who find Hollywood-Burbank Airport more conveniently accessible than the overcrowded fa-



cilities at the Los Angeles International Airport. We therefore urge that the applications of any carrier or carriers who are ready, willing and able to provide service at Hollywood-Burbank Airport to and from points in the Pacific Northwest and in particular, Portland, Oregon and Seattle, Washington, be heard and considered.

All too often carriers are granted authority to provide service in the Los Angeles area with Hollywood-Burbank Airport as a coterminal and then concentrate all of their service at the Los Angeles International Airport. We hope that you will take another look at the Pacific Northwest and that in your deliberations you will place a great deal of emphasis upon the willingness of a carrier to actually provide service at the Hollywood-Burbank Airport.

Respectfully,

/s/ Charles E. Compton

**CHARLES E. COMPTON**

**Mayor, City of Burbank**

**PLAINTIFFS AND INTERVENING PLAINTIFFS**  
**EXHIBIT 39.**

**RESOLUTION NO. 14,506**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REQUESTING THE CIVIL AERONAUTICS BOARD TO AUTHORIZE CONVENIENT AND DIRECT AIR PASSENGER SERVICE BY PACIFIC AIRLINES FROM BURBANK TO SAN DIEGO, LAS VEGAS AND PORTLAND.**

**WHEREAS, Pacific Airlines, Inc. has applied to the United States Civil Aeronautics Board for the operating authority to provide non-stop air passenger service from Lockheed Air Terminal in Burbank to San Diego, California; to Las Vegas, Nevada; and to Portland, Oregon; and**

**WHEREAS, there is not currently any non-stop air passenger service from Burbank to Portland or from Burbank to Las Vegas; and the authority requested by Pacific Airlines would provide one stop air passenger service from San Diego to Las Vegas via Burbank, which would expedite air travel to fill the needs of the three cities; and**

**WHEREAS, Lockheed Air Terminal is readily accessible to all parts of Los Angeles and is the air transportation facility directly and primarily available to three million people in the northern half of the Los Angeles metropolitan area; and**

**WHEREAS, conversely, Los Angeles International Airport, with its related surface transportation and passenger handling facilities, is overtaxed, congested and inconvenient for the immediate requirements of the people in the northern metropolitan area; and**

WHEREAS, it is the determination of this Council that the commencement of non-stop air passenger transportation service from Burbank to Portland and to Las Vegas, together with one stop air passenger service via Burbank from San Diego to Las Vegas, will help to meet the growing requirements of the industrial and population centers directly serviced by Lockheed Air Terminal;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BURBANK that the United States Civil Aeronautics Board be urged to consider favorably and grant in the public interest the air passenger operating authority requested by Pacific Airlines, Inc. in the matter docketed No. 18189.

BE IT FURTHER RESOLVED THAT THE City Clerk be directed to transmit a copy of this resolution to the Civil Aeronautics Board.

PASSED and ADOPTED this 18th day of April, 1967.

/s/ Robert F. Brandon

Robert F. Brandon, President of the  
Council of the City of Burbank

Attest:

/s/ Marion W. Marshall

Marion W. Marshall, City Clerk

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State of California, County of Los Angeles, City of  
Burbank—ss.

I, MARION W. MARSHALL, City Clerk of the City of Burbank, do hereby certify that the foregoing resolution was duly and regularly passed and adopted by the Council of the City of Burbank at its regular

meeting held on the 18th day of April, 1967, by the following vote:

**AYES:** Councilmen Compton, Haven, Whitney and Brandon.

**NOES:** Councilmen None.

**ABSENT:** Councilman Williams.

/s/ Marion W. Marshall

Marion W. Marshall, City Clerk

The Within Instrument Is a Correct  
Copy of the Original on File in this Office

Attest: Date: 4-19-67

/s/ Marion W. Marshall,

City Clerk of the City of Burbank

By .....

**PLAINTIFFS' AND INTERVENING PLAINTIFFS  
EXHIBIT 40.**

**RESOLUTION NO. 15,190**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK URGING THE CALIFORNIA PUBLIC UTILITIES COMMISSION TO APPROVE NON-STOP PASSENGER AIR-SERVICE BETWEEN THE HOLLYWOOD-BURBANK AIRPORT AND SACRAMENTO.**

WHEREAS, there is pending before the California Public Utilities Commission an application or applications to provide through non-stop passenger air service between the Hollywood-Burbank Airport and Sacramento; and

WHEREAS, the vast area served by the Hollywood-Burbank Airport is greatly in need of such service; and

WHEREAS, there are numbers of persons living and working in and around the Hollywood-Burbank metropolitan area who currently desire non-stop passenger air service to and from Sacramento; and

WHEREAS, travelers from this area using the Los Angeles International Airport for travel to and from Sacramento are subject to a substantial time loss that would be significantly curtailed if service were available at the Hollywood-Burbank Airport; and

WHEREAS, such service would help relieve traffic congestion in and around the Los Angeles International Airport, both in the air and on the ground.

NOW, THEREFORE, the Council of the City of Burbank does resolve that the Public Utilities Commission of the State of California is urged to favorably consider authorizing non-stop passenger air service be-

tween the Hollywood-Burbank Airport and Sacramento at the earliest possible time.

**RESOLVED FURTHER** that the City Clerk shall send a certified copy of this resolution to the Public Utilities Commission of the State of California.

**PASSED and ADOPTED** this 13th day of May, 1969.

**George W. Haven**  
**Mayor of the City of Burbank**

**Attest:**

**Marion W. Marshall, City Clerk**



**PLAINTIFFS' AND INTERVENING PLAINTIFFS  
EXHIBIT 41.**

**Office of the Council**

**City of Burbank**

**California**

**August 2, 1966**

**Honorable Charles S. Murphy**

**Chairman**

**Civil Aeronautics Board**

**Universal Building, No. 1010**

**Washington, D. C. 20428**

**Dear Mr. Murphy:**

Recently, the Civil Aeronautics Board tentatively determined that it was in the public interest to liberalize the operating rights of Pacific Air Lines, Inc. by permitting the carrier to provide nonstop air passenger service to eleven growing, Western markets. Four of these involve and terminate in the City of Burbank. This City agrees with the Board's determination and urges Pacific Air Lines, Inc. to take advantage of the authority granted and in particular to initiate air carrier service between Burbank and the Cities of Oakland and Sacramento.

Lockheed Air Terminal, which is situate primarily within the City of Burbank, is the air transportation facility primarily available to three million people in the Northern half of the Los Angeles metropolitan area. It is readily accessible to all parts of Los Angeles. Its favorable location and the communities which it serves are depicted on the diagram attached. At the present time there is neither direct nor nonstop air pas-

senger service connecting this convenient facility with the City of Oakland or the City of Sacramento.

It is the conclusion of the leadership of this City that the commencement of air passenger service to Oakland will fill the growing needs of both the commerce and population in the entire California East Bay area as well as the industry and population centers serviced by Lockheed Air Terminal locally. Service to the City of Sacramento will enable the Burbank transportation facility to serve directly that portion of the thirty thousand monthly air trips required by state government which is directly concerned with the Northern half of the Los Angeles metropolitan area.

For these reasons the City of Burbank enthusiastically supports the tentative determination of the Civil Aeronautics Board to liberalizing the conditions and limitations of the certificated authority of Pacific Air Lines, Inc.

Respectfully yours,

/s/ Robert F. Brandon,

ROBERT F. BRANDON, MAYOR

RFB;WWA:lf

Attachment

**PLAINTIFFS' AND INTERVENING PLAINTIFF'S  
EXHIBIT 47.**

[14 CFR Part 93]

[Docket No. 9113; Notice 68-20]

**High Density Traffic Airports**

**Notice of Proposed Rule Making and  
Notice of Public Hearing**

The Federal Aviation Administration is considering amendments to Part 93 of the Federal Aviation Regulations that would prescribe special air traffic rules and other requirements for operations to or from airports designated in that part as high density traffic airports.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590.

In addition to this notice, the agency will hold a public hearing at 9:30 a.m., Wednesday, September 25, 1968, at Federal Office Building 10A, 800 Independence Avenue SW., Washington, D.C. 20590, to receive the views of all interested persons on the high density traffic airports regulatory proposal. Interested persons are invited to attend the hearing and present oral or written statements on the matters set forth herein which will be made a part of the record of the hearing. Any person who wishes to make an oral statement at the hearing should notify the agency by Sep-

tember 18, 1968, stating the amount of time requested for his statement. All information presented at the hearing and all communications received by October 9, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments and information received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The hearing will be an informal hearing conducted by a designated representative of the agency under §11.33 of the Federal Aviation Regulations. It will not be a judicial or evidentiary type hearing so there will be no cross-examination of persons presenting statements. After all initial statements have been completed, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements.

A transcript of the hearing will be made; anyone may buy a copy of the transcript from the reporter.

Delays of varying magnitude are encountered at many terminal areas, particularly at New York, Chicago, Washington, Boston, Miami, Los Angeles, San Francisco, and Atlanta. The situations at New York, Chicago, and Washington are the most critical. Congestion at these terminals frequently requires the imposition of traffic flow restrictions creating backup delays throughout the air transportation system.

A reduction in air traffic delays can be accomplished only by increasing the capacity of the system or decreasing the demand placed upon it. Certain changes in air traffic and airport procedures and practices are

already planned by the FAA to increase aircraft handling capacity. These changes include the postponement of the commissioning of new towers at noncritical locations; the elimination of precision approach radar service at some locations; the reduction in hours of towers operation from 24 to 16 at lower level activity locations; the reduction in the hours of operation of a number of flight service stations; the curtailment of VFR flight plan services; and the reallocation of positions, freed by these changes, to those facilities now experiencing congestion problems. In addition, the FAA is initiating accelerated and more effective recruiting and training programs for air traffic controllers.

The agency is also reviewing current "additional" services provided by its air traffic control system, with a view toward possible curtailment or abolition of some of those services which are not directly related to the separation of IFR traffic. These actions would be taken to reduce the work load on controllers and permit greater concentration on the movement and separation of traffic. The so-called "flow control system", which is an integral part of the FAA air traffic control system, is being refined and improved as part of an internal effort by the agency to more effectively and equitably regulate the flow of air traffic. This revamping of the flow control system will be completed and placed in operation within the next month.

Despite these improvements, FAA believes that regulatory action must be taken to alleviate congestion. Initially, the proposed regulatory actions would be directed to the Chicago, New York, and Washington areas. However, as congestion and delay increases in

other areas, regulatory control of demand would be extended as appropriate.

In arriving at the proposals contained in this notice, the FAA has consulted with industry organizations representing all major segments of aviation. A series of meetings has been held with representatives of these organizations and their comments and suggestions have been very helpful to the FAA in the development of this notice. The airport operators concerned have also been consulted in determining the allocation of operations at the airports.

The substance of the regulatory action would consist of the following amendments to Part 93 of the Federal Aviation Regulations;

1. Initially, John F. Kennedy, La Guardia, Newark, O'Hare, and Washington National Airports would be designated as high density traffic airports. At each of these airports a fixed number of IFR operations (take-offs and landings) per hour would be allocated for reservations.

In arriving at the number of IFR operations reservations proposed for each designated high density traffic airport, the FAA considered a number of variable factors including airport ground facilities, weather conditions, noise abatement procedures, aircraft mix, uniformity of flow, runway combinations, and the availability of alternative airports. Kennedy, La Guardia, Newark, O'Hare, and Washington National Airports would be allocated 80, 60, 60, 135, and 60 operations per hour, respectively. The specified figures are in excess of the capacities of the airports to handle IFR traffic in IFR conditions. They are selected on the basis that operations in these amounts, and additional opera-



tions, may be handled when weather conditions are better than IFR. It is believed preferable to fix the number of allowable reservations in the higher amounts, with the necessity of accepting traffic delays in IFR conditions, rather than employing lower figures, more representative of IFR capacity, which might result in unused capacity during good weather conditions. These allocations would be specified in Part 93 of the FARs as shown in § 93.123 of this proposal.

2. The proposed regulation would also allocate the reservations among the various classes of airport users. These allocations would be fixed only after additional consultation with the airport operators involved and the several classes of users and consideration of the comments and views provided by all aviation interests in response to this notice and in the hearing. The tentative allocations, on which comment is invited at this time, are specified in §93.123.

Allocations of IFR reservations would be made to three classes of users: (1) scheduled air carriers except air taxis; (2) scheduled air taxis; and (3) all other aircraft operators. In addition, scheduled air taxis would be granted any reservations not taken by the scheduled air carriers. In the event the total reservations allocated for the scheduled air carrier and scheduled air taxi operations were not taken by those operations for any hour, the remaining reservations would be available for other operations, principally, general aviation. Accordingly, IFR general aviation would be limited to the figures specified for "other" operations only when the other classes of users take all their allocated reservations.

Prior departure or arrival reservations would be required for each flight operated IFR to or from a designated high density traffic airport. Reservations will be granted by ATC within the limits of the IFR operations allocated in Part 93 for the particular airport. Air carriers would be able to obtain these reservations by publication of the flight schedules: *Provided*, That the flight schedules are within the air carrier allocations. Other operators would contact the nearest Flight Service Station by radio, phone, in person, or any other available means. Each one would furnish his estimated time of arrival at or departure from the high density airport involved. In the case of a flight from one high density traffic airport to another, both arrival and departure times would be furnished. His request would be processed through existing agency communications and the FSS would advise him either of the approval or the nearest available reservation. For flights between two high density airports, approved reservations for the takeoff and arrival would have to be obtained prior to takeoff. After receipt of the approval, the operator would file an IFR flight plan in the usual manner. If the operator subsequently determines not to use his approved reservation, he should cancel it at the nearest ATC facility. An approved reservation would not constitute a warranty against traffic delays.

Under the proposed regulation, the use and cancellation of approved reservations would be on the honor system. In the event operations under the regulation, if adopted, demonstrate the necessity for more stringent provisions or sanctions, these would be added to the regulation.

3. In order to facilitate the flow of IFR operations allocated for the high density traffic airports, aircraft operating under an IFR allocated reservation would be required to be capable of maintaining an airspeed of not less than 150 knots while under control jurisdiction of the approach control ATC facility. In addition, all aircraft operating IFR to or from a high density traffic airport would have to be equipped with an operable coded radar beacon transponder having at least a Mode A/3 64 code capability replying to Mode A/3 interrogation with the code specified by ATC; and have a second pilot.

4. Operations in excess of the number allocated for reservation at a particular high density traffic airport would also be permitted under additional reservations granted by ATC. These would be applied for under the procedures applicable to the allocated reservations and would be granted when, due to weather or other factors, the operation could be accommodated without adverse effect on the allocated operations for the particular airport. The excess operations may be IFR, or VFR, i.e., ceiling of at least 1,000 feet and visibility of 3 miles reported at the high density traffic airport. Aircraft authorized to operate VFR on this basis need not meet the performance capabilities, flight crew and equipment requirements prescribed for the allocated operations.

If the appropriate airport and air traffic facilities are available, STOL, VTOL, helicopter, and other operations would be accommodated where possible to do so without interference with the aircraft operations under allocated reservations. These excepted operations would be accommodated on a procedural basis by agreements

between aircraft and airport operators and the appropriate ATC facility. The agreement may relieve the operator from the requirements of Subpart K.

The proposed allocations of reservations reflect the obligation of the Department of Transportation to provide for efficient utilization of the airspace and recognize the vital role of the certificated common carriers' scheduled operations in air transportation. For example, these air carrier operations would be given all of the allocated reservations during the peak traffic hours of 5 p.m. to 8 p.m. at Kennedy International Airport. The proposal recognizes a greater priority for scheduled air taxi operators as they are also common carriers of the public. The proposal takes into account the relative inflexibility of scheduled operations compared to unscheduled operations. The proposal accommodates all classes of users and no one would be totally denied access to any of the named airports. The proposed restrictions will affect all users if adopted.

The proposed distribution would require a reduction in scheduled certificated air carrier flights during certain hours. It is anticipated that the affected carriers will reach voluntary agreements as to how that reduction will be accomplished, subject to any Civil Aeronautics Board requirements.

In consideration of the foregoing, it is proposed to amend Part 93 of the Federal Aviation Regulations as hereinafter set forth:

1. Amend § 93.1 by adding a new paragraph (e) to read as follows:

**§ 93.1 Applicability.**

(c) Subpart K of this part designates high density traffic airports and prescribes air traffic rules and other requirements for operating aircraft to or from those airports.

2. By adding a new Subpart K to read as follows:

**Subpart K—High Density Traffic  
Airports**

**§ 93.121 Applicability.**

This subpart designates high density traffic airports and prescribes the aircraft equipment and performance requirements, pilot requirements, and air traffic rules for operating aircraft to or from those airports.

**§ 93.123 High density traffic airports.**

(a) Each of the following airports is designated as a high density traffic airport and, except as provided in § 93.129 and paragraph (b) of this section, is limited to the hourly number of allocated IFR operations (takeoffs and landings) that may be reserved for the specified classes of users for that airport:

**IFR OPERATIONS PER HOUR**

Class of user	John F. Kennedy Airport	LaGuardia Airport	Newark Airport	O'Hare Airport	Washington Airport
Scheduled air carriers					
except air taxis.....	70	48	40	115	40
Scheduled air taxis .....	5	6	10	10	8
Other .....	5	6	10	10	12

(b) The allocations of reservations under paragraph (a) of this section among the several classes of users do not apply 12 midnight to 6 a.m. local time, but the total hourly limitation remains applicable. The allocations of reservations under paragraph (a) of this section at John F. Kennedy Airport do not apply from 5 p.m. to 8 p.m. local time. During those hours, the

total 80 reservations are allocated to scheduled air carriers except air taxis. In the case of Washington National Airport only, the allocation of 40 reservations under paragraph (a) of this section does not include extra sections of scheduled air carrier flights which may be conducted without regard to the limitation of 40 reservations. Any reservation under paragraph (a) of this section allocated to, but not taken by, scheduled air carrier operations is available for a scheduled air taxi operation. Any reservation under paragraph (a) of this section allocated to, but not taken by, a scheduled air carrier or scheduled air taxi operation is available for other operations.

**§ 93.125. Arrival or departure reservation and flight plan.**

Unless otherwise authorized by ATC in a letter of agreement under §93.120 (c), no person may operate an aircraft to or from an airport designated as high density traffic airport unless—

(a) He has received for that operation an arrival or departure reservation from ATC; and

(b) He has filed under an IFR or VFR flight plan for that operation.

**§ 93.127 Aircraft and pilot requirements.**

(a) Unless otherwise authorized by ATC in a letter of agreement under § 93.129(c), no person may operate an aircraft IFR to or from a high density traffic airport unless the aircraft—

(1) Is equipped with an operable coded radar beacon transponder having at least a Mode A/3 64 code capability, replying to Mode A/3 interrogation with the code specified by ATC, and



(2) Has a minimum flight crew of two pilots.

(b) No person may operate an aircraft to a high density traffic airport under a reservation allocated in § 93.123 unless the aircraft is capable of maintaining an airspeed of not less than 150 knots while under the control jurisdiction of the ATC approach control facility for that airport.

§ 93.129 Additional operations.

(a) *IFR*. The operator of an aircraft may take off or land the aircraft under IFR at a designated high density traffic airport without regard to the maximum number of operations allocated for that airport if he obtains a departure or arrival reservation, as appropriate, from ATC. The reservation is granted by ATC whenever the aircraft may be accommodated without adverse effect on the operations allocated for the airport for which the reservation is requested.

(b) *VFR*. The operator of an aircraft may take off or land the aircraft under VFR at a designated high density traffic airport if he obtains a departure or arrival reservation, as appropriate, from ATC. The reservation is granted by ATC whenever the aircraft may be accommodated without adverse effect on the operations allocated for the airport for which the reservation is requested and the ceiling at the airport is at least 1,000 feet and the ground visibility reported at the airport is at least 3 miles. A VFR operation conducted under this paragraph (b) is not required to comply with the aircraft and pilot requirements of § 93.127.

(c) *Operations under letters of agreement*. The operator of an aircraft may take off or land the aircraft under either IFR or VFR at a designated high density

traffic airport if he operates the aircraft without interference to any other aircraft operation and the operation is under the terms of a letter of agreement with the airport management and the appropriate ATC facility. An operation conducted under this paragraph (c) is not required to comply with the aircraft and pilot requirements of § 93.127 except to the extent specified in the applicable letter of agreement.

These amendments to Part 93 of the Federal Aviation Regulations are proposed under the authority of sections 103, 307 (a), (b), and (c), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S. 1303, 1348 (a), (b), and (c), 1354(a), and 1421).

Issued on September 3, 1968, in Washington, D.C.

**D. D. Thomas,**

*Acting Administrator.*

[F.R. Doc. 68-10828; Filed, Sept. 4, 1968; 10:23 a.m.]

## **PLAINTIFFS' AND INTERVENING PLAINTIFFS EXHIBIT 48.**

### **Part 93—Special Air Traffic Rules and Airport Traffic Patterns**

#### **High Density Traffic Airports**

The purpose of this amendment to the Federal Aviation Regulations is to continue in effect special air traffic rules for high density traffic airports which expire on December 31, 1969.

The amendment was proposed in Notice 69-51 and published in the Federal Register on November 15, 1969 (34 F.R. 18312.) In the notice the FAA proposed to continue the rules for a period of 9 to 12 months. In this connection, the public was advised that during the 4-month period the rules have been in effect, the FAA has determined that the congestion problem has improved and delays substantially reduced as compared to the situation a year ago, but that because there still has not been any substantial change made to the National Airspace system, the restraining influence of these rules is still necessary.

In response to this notice, 42 public comments were received from segments of the aviation industry, public officials and other interested persons. In general, the comments from industry representatives for the scheduled air carrier class of user supported the proposed extension. On the other hand, the preponderance of the comments from organizations and individuals from general aviation or "other" class of user opposed any extension of the rules. More specifically, the objections

from the latter group can be catalogued as falling into five types:

1. The rules are ineffective.
2. The rules discriminate against private and corporate airspace users.
3. The rules have an adverse impact upon general aviation and fixed base operators.
4. The rules impose rigidity upon operations that must be inherently flexible.
5. Congestion is caused by airline overscheduling.

Each of these objections was extensively argued by individuals, organizations and representatives of various corporations during the public hearing held in connection with this rule on September 25 and 26, and October 3, 1968. Also, these various objections were the subject of written comments to the notice of proposed rule making as well as the subject of many letters received and answered by the FAA since issuance of the original notice on September 3, 1968 (Notice 68-20). In view of this, further discourse to answer each objection appears unnecessary. The FAA experience, as indicated by statistical study covering the 4-month period subsequent to the issuance of the rules has shown that none of the users have been deprived of the use of any of the five high density traffic airports, except on infrequent occasions, and only during the early evening hours. These factors indicate that based upon actual experience, the present rule appears to be operating satisfactorily.

The comments from the scheduled air carriers and other groups associated with that segment of the industry, supported an extension of the rule. Significantly, only two comments from this group dealt with

the length of the proposed extension. In both cases, the Port of New York Authority and the Air Transport Association agreed that an extension up to 1 year was acceptable.

Several other commentators from this group individually suggested that the rules should be made effective only during the summertime or during hours when jet operations are permitted at a particular airport. We cannot adopt either of these two recommendations at this time because we lack sufficient statistical and operational air traffic support to permit deviation from the present uniform application of these rules. However, we will continue to study this aspect of the rules to the end that if circumstances permit, we will accordingly modify the rules.

In the rules issued on December 2, 1963 (Amdt. 93-13), we advised the public that the FAA would continue making procedural improvements in order to increase the ATC capability and to alleviate, as much as possible, the inconvenience that may be sustained by certain aircraft operators. In consonance with this pledge, the FAA order outlining operational procedure is being revised and will provide a longer lead time for securing IFR reservations and provide extra time in advance of holidays. VFR reservation procedures will also be simplified. These changes should eliminate some of the inconvenience to general aviation pilots operating to and from the high density airports.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all matter presented. In other respects, for the reasons stated in the preamble to the notice, the amendment is adopted as prescribed herein.

In consideration of the foregoing, Part 93 of the Federal Aviation Regulations is amended effective January 1, 1970, as follows:

**§ 93.131 Termination date.**

The provisions of §§ 93.121—93.129 terminate October 25, 1970.

(Secs. 103, 307 (a) (b), and (c), 313 (a) 601, Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348 (a), (b), and (c), 1354(a) 1421; sec. 6(c), Department of Transportation Act (49 U.S.C. 1665(c); § 1.4(b), Part 1 of the regulations of the Office of the Secretary (49 CFR 1.4(b)).)

Issued in Washington, D.C., on December 22, 1969.

**J. H. Shaffer,**

*Administrator.*

[F.R. Doc. 69-15356; Filed, Dec. 24, 1969; 8:47 a.m.]



**FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED**

## PLAINTIFFS' AND INTERVENING PLAINTIFFS EXHIBIT 51.

### CONTINENTAL AIR LINES MINIMUM CANCELLATIONS REQUIRED BY A 2300-0700 NATIONWIDE TAKEOFF CURFEW AUGUST 29, 1970, SCHEDULE

Aircraft Type	Flight Number	Segment	Daily Aircraft Miles	Percent of Domestic System Aircraft Miles
J	420	Seattle—Portland only	—	
	429	Portland—Seattle only	258	
	427	Houston—Seattle	—	
	430	Seattle—New Orleans	4,415	
	425*	New Orleans—Houston	304	
	54	Los Angeles—Houston	—	
	55	Houston—Los Angeles	2,802	
	66	Los Angeles—Houston	—	
	109*	Houston—Los Angeles	2,786	
	45	Denver—Colorado Springs	—	
	20	Colorado Springs—Denver	134	
	56	Los Angeles—Houston	—	
	65*	Houston—Los Angeles	2,836	
	16	Denver—Chicago	—	
	35	Chicago—Denver	1,855	
	712	Los Angeles—Chicago	—	
	11	Chicago—Los Angeles	3,608	
	606	Los Angeles—Chicago	—	
	5	Chicago—Los Angeles	3,488	
C9	156	Los Angeles—Amarillo	—	
	180	Amarillo—Dallas	1,589	
	181*	Dallas—Los Angeles	1,302	
	128	Los Angeles—Houston	—	
	159	Houston—Los Angeles	2,849	
	177	Midland—Albuquerque	—	
	190	El Paso—Midland	897	
	@	Albuquerque—El Paso	—	
	151	Denver—El Paso	—	
	134*	El Paso—Denver	1,132	
TOTAL			30,255	14.99

Cancellation required to balance aircraft.

Ferry Flight

**PLAINTIFFS AND INTERVENING PLAINTIFFS  
EXHIBIT 55.**

**Aviation Development Council**

**Room 324, Hangar No. 2 (U.A.L.)**

**La Guardia Airport**

**Flushing, N.Y. 11371**

**(212) 457-7890**

**20 May 1966**

**Honorable Mario J. Cariollo  
President of the Borough of Queens  
120-55 Queens Boulevard  
Kew Gardens, New York**

**Dear Mr. Cariollo:**

At your request, the Aviation Development Council in behalf of the aviation industry has considered the probable consequences of the imposition of a curfew on night-time operations at the major airports in the New Jersey-New York Metropolitan Region.

Turner and Koni, consultants, was retained to assist the ADC in this review.

Although we are fully aware that a curfew would have a deleterious effect upon the aviation industry itself, we considered only the consequences of such a curfew upon the public convenience and necessity, which is a legal requirement imposed upon the air carriers by the Federal Aviation Act of 1958, the consequences upon the economy, and the consequences upon the problem of aircraft noise.

In the course of our review, we assumed that a curfew would be in effect at all three major regional airports—Kennedy International, La Guardia and New

and would be followed by a similar curfew at major airports throughout the nation.

### *The Effect Upon the Problem of Aircraft Noise*

We recognized, of course, that your primary interest in this study was to see whether a curfew would alleviate the noise problem without overly serious off-setting consequences, such as disruption of services to the Queens community at large, i.e., mail, cargo, elimination of the availability of round the clock service for use in case of all sorts of emergencies (family illness or death, transportation of medical supplies and equipment, business emergencies, etc.), loss of jobs through loss of business, and increased noise at other times. We recognized that the curfew would by hypothesis cut down aircraft noise substantially during the curfew hours although it could not be eliminated. The airport would have to remain open to service flights delayed by weather or other adverse conditions, to service emergency landings and take-offs, and to permit emergency repairs.

Some of these other off-setting factors are considered later in this letter. Addressing ourselves at the moment only to noise, we learn that flights cancelled during the curfew hours would have to be replaced as near as possible (outside the curfew hours) and that most of the services would have to be replaced during the hours immediately preceding the beginning of the curfew, i.e., between 9:00 p.m. and midnight. As you are aware these hours already, of necessity, include large numbers of flights and, based on complaints, are the period of greatest annoyance in the communities.

Accordingly, contrary to what might appear superficially to be the case, the curfew would seriously aggravate aircraft noise in the communities in the hours when the greatest annoyance already occurs. While this in itself would seem to make the curfew idea unsound as a noise abatement device, we know you will also be interested in the following paragraphs which indicate some of the adverse effects to jobs, mail deliveries, flight services and industry.

#### *Its Effect Upon Local Mail Service*

The United States Post Office informed us that "a midnight to 7 a.m. curfew would be disastrous to the movement of mail by air out of and into the Metropolitan Region. It would mean (1) second day delivery to a majority of those points which are now receiving next morning delivery, (2) diversion of some mail to surface transportation, (3) the economy of the New York area would suffer by not being able to communicate or ship parcels for next morning delivery, and (4) since, generally, mail moves at night and passengers in the daytime, serious overloads and traffic congestion would result."

An estimated 28,800,000 letters would have been seriously delayed in the New Jersey-New York Metropolitan Region had there been a curfew during June 1965, according to a study by the Post Office Department.

About 55 per cent of these letters were regional mail; the remainder were transit, moving through New York to other destinations. If 7 a.m. were the earliest arrival time, all of the transit mail plus local residential mail would have been delayed at least twenty-four hours. Local business mail would not have been available before the third business delivery.

With an outgoing volume about equal to incoming mail, about one billion letters a year would be seriously delayed because of a curfew.

According to Postmaster General Lawrence F. O'Brien, the Post Office Department plans to abolish the distinction between first class and air mail "to provide a new class of priority mail that will be delivered overnight almost anywhere in the country."

To provide overnight delivery, mail must be transported during the night. Because mail volume reflects the daytime activities of the public, its accumulation, sorting and transportation to and from the airports, as well as its shipment, take place largely after the close of the business day. The volume is such in New York that the pace has not slackened by 1.a.m. Consequently, night hours must be utilized to move the bulk of the mail.

To permit overnight delivery, mail flights from New York have been selected to dovetail with surface transportation schedules. A change of 45 minutes has result in missed connections, causing a twenty-four hour delay in deliveries.

It is obvious that a curfew on night-time operations at the airports would seriously impede the movement of mail and make overnight delivery impossible.

### *The Effect Upon Scheduled Service*

A curfew upon operations between midnight and 7 a.m. would cause the cancellation of and deprive the public of 1,107 weekly night services between New York City and 43 communities. In addition, another 1,357 weekly day services between New York City and 61 communities would have to be cancelled in or-



der to balance equipment, i.e., to have aircraft in the proper location for trips. Many of these latter services occur during the hours of greatest demands.

The cancellation of the 2,464 day and night scheduled services would affect people, too. An estimated 1,075,000 persons annually fly in and out of the Region's airports at night for a variety of reasons. Some do so for business reasons; others because of emergencies; some to stretch vacations; others to take advantage of reduced fares available at night. Whatever the reason, a curfew would deprive those one million people of an essential service.

The effect of time zone changes on service to the East Coast from the West Coast, with a curfew in effect, has far reaching consequences on the adequacy of service that could be provided. For these cities which can support non-stop service from the West Coast to New York, except for the sixty-minute period between 11 p.m. and the beginning of the midnight curfew on the West Coast, the public would be deprived of East-bound service from 4 p.m. until 7 a.m. the following morning. If any allowance is to be made for the delayed arrival problem that will inevitably arise, it would be nearly fifteen hours out of every twenty-four that two of the most populous states in the nation would be without air transportation from West to East.

As many as 26 communities with relatively infrequent direct or connecting service to the Region would experience a deterioration in their last service East-bound. For example, without a curfew the latest flight to New York from Huntsville, Alabama, is 9:26 p.m. With a curfew, the latest flight would be 4:50 p.m.

### *Its Effect Upon Air Cargo*

Because most air cargo moves at night, the cancellation of 1,107 weekly night services because of a curfew would have its most severe impact upon the air cargo industry, upon the hundreds of leading industries which rely upon air cargo for shipment of its goods, and, of course, upon their many thousands of employees.

The free movement of people and goods is indispensable to American economic life. The unrestricted flow of goods, in particular, has become increasingly important to innumerable industries and business. The United States in the jet age is five and one-half hours wide and two and one-half hours deep. By taking advantage of the jet's speed, a New York manufacturer can develop a San Juan market as competitively as he can develop Pittsburgh. The vast Los Angeles market is as close to New York by jet as the smaller Buffalo market is by truck. To service such a market, however, the New York manufacturer must make use of air transportation between midnight and 7 a.m. for next morning delivery on the West Coast to match the delivery that would be made by a West Coast manufacturer.

The fact that the largest air cargo center in the world is at Kennedy International Airport illustrates how vital air cargo has become to the Region. More than 600,000 tons of air cargo, or about 15 per cent of the United States total, is shipped through the Region's three airports, and this is increasing rapidly (about 50 per cent in 1965).

The cancellation of night services because of a curfew would require the cancellation of 607 all-cargo

services, or 42 per cent of the Region's total all-cargo service.

### *Its Effect Upon Industry*

The loss of 42 per cent of its capability to move goods at night would seriously affect the economy of the Metropolitan Region, as well as that of the nation. In addition, it would seriously inhibit future growth, not only of air cargo itself, but of the economy.

Its effects upon the economy of Queens County, of all the Region, would be immediate. A survey of commodity shipments indicated that 22 per cent of the total air cargo shipments into and out of the Region were electrical equipment, machinery and supplies which, as you know, are a vital part of the Queens and Long Island manufacturing industry.

Other segments of local industry would equally be affected. Shipments of printed matter and wearing apparel, both of which are important Regional industries, accounted for 20 per cent of the Region's air cargo traffic.

To a great extent, total costs in manufactured goods come from savings in reduced inventory, which air cargo permits, while at the same time improving customer service. Although there is agreement among diverse business activities that the ability to service customers would deteriorate and total cost would increase if air cargo were severely curtailed, an attempt to show a specific dollar amount is difficult. Several significant examples, however, are shown below:

To competitively service 261 branches within the United States, American Optical, located in the Region, stocks 60 service centers with 30,000 ophthalmic prod-

sets. Orders for out-of-stock items are received by teletype between 2:30 p.m. and 6 p.m. By 8 p.m., orders are on their way to the airport for a next morning delivery. In ten years, American Optical has reduced its ratio of inventory-to-sales from 43 per cent to 27 per cent. Overnight delivery is utilized for 20 per cent of the more complex products which are centrally located.

Raytheon, with eight domestic divisions consisting of 37 plants and laboratories throughout the United States, is a pioneer in using air freight as an integral part of its distribution system. Through a program called "Rayair," it envisions eventual establishment of four-to-six distribution-assembly points, each serving a 200-300 mile radius area. The volume of fact turnover items in inventory thus can be kept to a minimum, and slower items can be stocked only at the point of manufacture.

The New York fur industry makes about 900 fur shipments each night for next-day delivery. This capability for overnight delivery has enabled it to retain its preeminent position over other centers, such as Chicago, Dallas and Los Angeles.

Car manufacturers are one of the biggest users of air freight to maintain an unbroken production run. Delay in subcontractor's production can stop production in the main assembly plant. But by making a priority production run of the item causing the delay and by shipping parts overnight by air, costly production delays and stoppages are avoided.

The effect of cancellation of night service upon perishables would be more immediate. Each day, 3,000 pounds of fresh cut flowers are picked on the West Coast and packed and flown to New York where they

are processed by the wholesaler and delivered to the retailer in time to allow him a full selling day. Arrival before midnight would require refrigeration and extra handling which would increase costs; arrival after 7 a.m. would not provide sufficient time for selling.

Over 12.6 million pounds of fresh strawberries a year are flown from California to cities throughout the country; much of it to the New Jersey-New York Metropolitan Region. By keeping the time between harvest and consumption at a minimum, about 20 percent is saved in decreased spoilage. A curfew would result in increased spoilage as well as increased handling costs.

About 10,000 pounds of Chinese vegetables are flown daily from the West Coast. The harvesting, packaging, flying and distribution to restaurants is accomplished during the night hours. Early morning preparation of fresh crisp produce for noon and evening menus could not be accomplished, if the night hours were not available. Refrigeration or spoilage, plus extra handling, would increase costs.

Some newspapers prepared during the night for morning delivery are another type of perishable that would be affected by a curfew. The *New York Times* sells in 11,464 cities and towns in the United States, as well as in Canada, the Caribbean and South America.

With a different type of paper, such as the *Daily News*, the daily shipment of 28,500 papers by air at night represents a New York business which is making use of air cargo to expand its market in direct competition with local papers in other areas.

Five nights a week, 25,000 copies of the *Wall Street Journal* are flown by chartered plane from Westfield,

Mass., to Newark Airport, normally arriving about 1 a.m. for local distribution. Use of night-time hours is necessary for printing and distribution in order to make the paper available to subscribers and at newsstands in the morning.

These are only examples of the far-reaching effects a curfew would have upon different types of business. There are, of course, many more. The effect upon those New York businesses which service a national market, in particular, would be most serious. Because of their inability to compete with regional businesses, they would either shrink to a regional business themselves or have to relocate to a city which provides unrestricted air transportation. Either way, there would be fewer jobs available in the Region.

The delays in the shipment of air cargo caused by a curfew would increase considerably the costs of doing business for innumerable industries because of increased investment in inventories, greater losses, through increased spoilage and higher costs from increased handling. Increased costs of doing business, in turn, detrimentally affect the number of jobs available.

#### *Its Effect Upon the Banking Industry*

A curfew would cost New York banks \$34,870,000 a year in lost interest, so extensive is the finance industry's use of consolidated air express shipments on night flights for daily transactions, according to the Federal Reserve Bank and the New York Clearing House.

#### *Its Effect Upon the Department of Defense*

The loss of night-time services would cost the Department of Defense an additional \$7,750,000 annually for the transportation of personnel. The DOD is a large user of night coach fares for the movement of military personnel. In Fiscal Year 1965, the DOD used commer-



cial air carriers to transport 1,900,000 persons at a cost of \$117,700,000. Many of these movements are at night because aircraft become available for charter or because night-coach rates are available. A curfew on night-time operations, of course, would remove these opportunities, requiring all movements to be made during day-time operations at the higher rates.

### *Summary*

It has been suggested that a curfew upon night-time operations at the Metropolitan Region's three major airports would alleviate the problem of aircraft noise in the community. On the contrary, it would seriously aggravate the problem because of the need for increased scheduling between 9 p.m. and midnight, the very hours of greatest annoyance.

In addition, such a curfew would cause the cancellation of 2,464 weekly services at the Region's three major airports. The loss of these services, in turn, would deprive about one million passengers annually of a vital service. It would cost \$34,870,000 annually in lost interest because the Federal Reserve Bank and the New York Clearing House could not process checks. About one billion letters annually would be seriously delayed.

The Metropolitan Region would lose about 42 per cent of its air cargo capability, resulting in far-reaching and deleterious effects upon industry and business in the Region, as well as throughout the nation. This detrimental effect would eventually manifest throughout the Region in a serious loss of jobs available.

I trust this information will be helpful in understanding the situation. I shall be pleased to meet with you if you should desire to discuss the subject further.

Sincerely,

/s/ James T. Pyle

JTP:sw

## **PLAINTIFFS' AND INTERVENING PLAINTIFF'S EXHIBIT 56.**

**(Only That Portion Which Includes Pages 13 and 14 Up  
to the Section Designated "Development Criteria".)**

### **SECTION II**

#### **THE PLAN**

##### **Dimensions of the National Airport System**

The Federal Airport Act of 1946, as amended, directs the development of a national plan for "a system of public airports adequate to anticipate and meet the needs of civil aeronautics . . . not . . . limited to any classes or categories of public airports . . . take into account the need of both air commerce and private flying . . . technological developments . . . (and) probable growth and requirements of civil aeronautics. . . ."

The first section of this narrative discussed the various forms of air travel and their effects on civil aviation. In particular, it stressed the role of the airport as a vital component of the air transportation system. It has shown that the increased public utilization of air carrier, air cargo, and general aviation has resulted in an urgent need for additional airport development.

This section defines the criteria which have been used in establishing a national system of airports, the effects on this system of long range requirements imposed by advances in aircraft technology, and includes a compilation by type of the landing facilities which comprise the 1968 Amendment to the National Airport Plan.

#### **DEVELOPING THE AIRPORT SYSTEM: ENTRY AND DEVELOPMENT CRITERIA**

There are currently on record with the FAA over 10,000 landing facilities (airports, seaplane bases, and

heliports) in the U.S. These range from the largest air carrier airport to the smallest turf strip built by the owner for his private use. Obviously, inclusion of an airport in a national system is not justified merely by virtue of the fact that it exists.

The criteria for inclusion of a landing facility in the national airport system and the type of development needed to bring such facility into full utilization as part of the system are predicated on a national interest derived from a local need for access to the national air transportation network.

An important consideration of these criteria is the need to serve the greatest number of people efficiently with a minimum of well-located and well-designated facilities. This avoids the expensive proliferation of airports. This criterion may be established as a time/distance limitation relative to the location of airports to the people served. Another approach is to encourage development of regional airports (single air carrier airports to serve two or more communities). The subject of regional airports is discussed in detail in Section III.

#### *Entry Criteria:*

The criteria used to establish the listing of locations and airports (Section IV of this report) are based on the principle of the need of a community for air transportation in relation to a national interest. Such a national interest is assumed when one or more of the following conditions exists: (1) a requirement for scheduled airline passenger service; (2) a substantial degree of nonlocal aviation activity; (3) lack of other modes of transportation; and (4) a local economy dependent upon air transportation for its contribution to the gross national product.

Airports included in the NAP are broken down into two main functional categories:

1. *Airports to accommodate airline service* include existing airports presently receiving airline service and communities designated to receive airline service to fulfill a "certificate of public convenience and necessity" issued by the Civil Aeronautics Board. Also, new or supplemental air carrier airports are included for areas in which a high degree of aeronautical activity indicates a need. Replacement airports may be included in the Plan in areas in which an existing air carrier airport cannot be economically expanded to accommodate projected traffic. A regional airport to serve two or more communities is included where such is considered a more feasible solution to meet long-range requirements than expansion of existing airports in the communities affected.

2. *Airports for general aviation use only* are included in the Plan under a variety of conditions.

An airport or location is included if it has been designated as an integral part of a *metropolitan area airport system*, as defined in a study which has been conducted locally and concurred in by FAA. Such airports take precedence over other airports in the area which have not been shown to be necessary entities in the integrated system. Non-metropolitan communities with airline-served airports do not normally require separate airports to serve general aviation only.

An airport which can serve to divert general aviation traffic from a congested airline-served airport in substantial quantity can be entered in the Plan as a "reliever" airport. A congested air carrier airport, for the purpose of these criteria, is one which has ex-

perienced total annual aircraft operations in excess of 60% of the capacity of the airport and includes at least 30,000 annual operations by the air carriers and high-performance military aircraft using the field.

Where *air taxi service* is provided on a regular basis throughout the year (at least two flights a week) or where extended seasonal services is indicated, the airport may be included in the NAP.

An *airport which serves the business interests of the community* may be included if there is evidence of considerable use by based aircraft owned or leased by local business concerns or by transient aircraft visiting the community for the conduct of business which is essential to the economic well-being of the area served. In communities served adequately by an air carrier airport, a separate airport for business aircraft would not be justified for inclusion in the NAP unless other factors warranting such inclusion were evident.

An airport or location may be entered in the Plan where there is evidence of *inadequate access to another NAP airport* by at least 10 aircraft owners. This is considered only when such owners would otherwise be at least 30 minutes ground travel time from the nearest adequate airport.

An airport which provides *access to a recreation area or facility* open to the public may be included if there is an indication of extensive use of the airport by visitors to the recreation facilities. These facilities include national parks, forests, and monuments.

Where a community may be isolated due to lack of adequate surface transportation, it may be included in the Plan. Also, locations which would otherwise be isolated during certain seasons due to the climate may be included.

Thus, there are several different criteria considered in developing the locations of airports in the national system. In the main, the system described is composed of existing, publicly owned civil airports or communities where development of such airports is recommended. Two exceptions to this rule governing entry criteria concern privately owned airports and military fields.

*Private airports* which meet the above criteria may be included in the NAP if they are now and will continue to be open to the public, if the facilities are adequate or may be expanded to meet recommended development needs, and if a more desirable location is not evident. Certain high-activity, privately owned airports are also included if a Federal interest has been expressed through provision of facilities such as an air traffic control tower, even though these airports do not necessarily meet the expansibility criteria. Acquisition of such fields by an eligible public body is encouraged wherever possible.

*Military airports* are included in the Plan only where joint use by civil aircraft is permitted and where requirement for such usage exists.



**DEFENDANTS' EXHIBIT A.**

**EMERGENCY CONDITIONS JUSTIFYING a  
JET DEPARTURE DURING CURFEW  
HOURS**

1. Delay of a flight which had been scheduled for departure prior to 2300 due to:

**Mechanical problems**

**Weather**

**Air traffic control procedures**

In these instances with the potential of many passengers being affected, we would have the range of emergency trips, disruption of vacation and business arrangements as well as the economic hardship for the passengers and the airlines.

2. Departure delayed due to bomb threat—aircraft delayed for search of aircraft, passengers and baggage.
3. Weather conditions causing aircraft to land here in place of a previously planned airport. When the weather permits, the aircraft should be allowed to resume its flight to avoid further disruption of the airlines' aircraft scheduling.
4. Medical emergency flights such as flying serum or other medical supplies and ambulance flights.
5. Military flights where the pilot states that an emergency exists.
6. Flights transporting personnel to work on government projects. If, due to the curfew, these people would be unable to get to their destination when needed, then the delay would not be in the national interest.

7. An aircraft which had to land here because of emergency conditions such as the illness of a passenger or a mechanical condition of the aircraft, should be allowed to depart as soon as the emergency condition is rectified.
8. In the interests of national security, corporate jets are sometimes required to depart during what would be curfew hours to enable officials to attend critical meetings with regard to government contracts.
9. The departure of an aircraft used in fighting fires or to transport personnel to fight a fire.

**DEFENDANTS' EXHIBIT A-1.**

**Office of City Attorney**

**City of Burbank**

**California**

**May 1, 1970**

**Mr. David M. Simmons**

**President**

**Lockheed Air Terminal**

**2627 North Hollywood Way**

**Burbank, California 91502**

**Dear Dave:**

The list of emergency conditions justifying a jet departure during curfew hours furnished by your office appears reasonable and will be used by the Police Department at least for the time being. In addition, the 6:40 A.M. charter flight by Lockheed-California specialists to Palmdale each working day has been cleared as an emergency flight.

If there are any modifications, you will be notified.

Very truly yours,

**SAMUEL GORLICK**

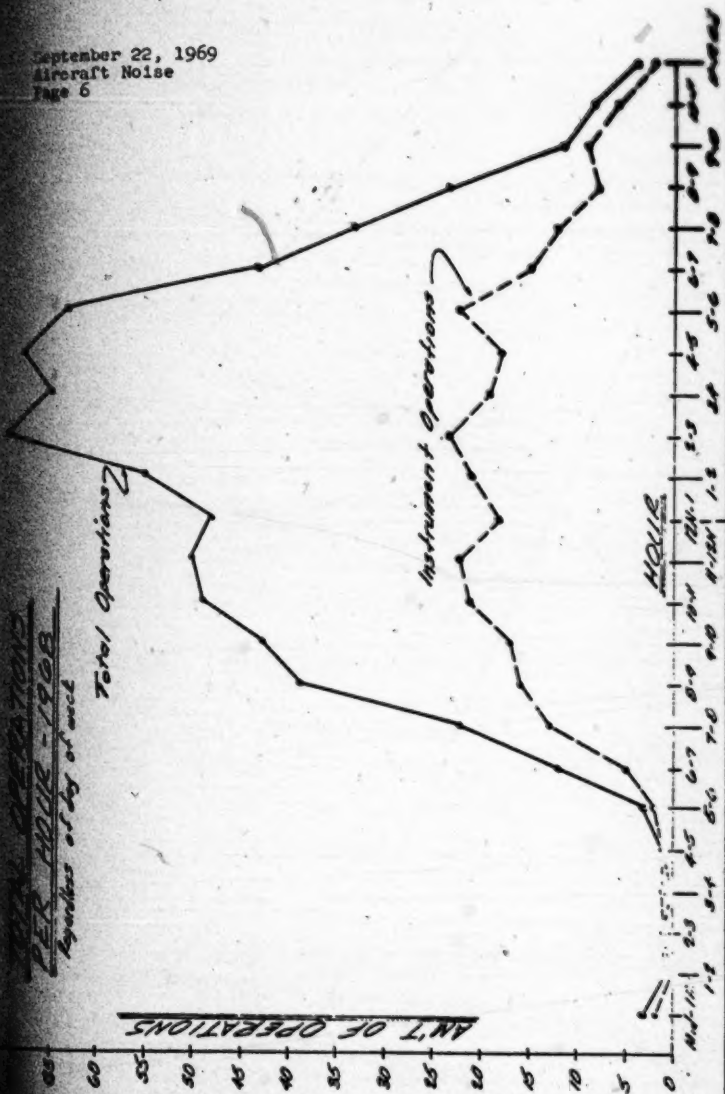
**City Attorney**

**SG:lh**

**cc: City Manager**

**Chief of Police**

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**FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED**